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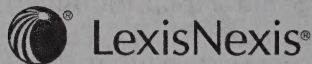
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TITLE 26

TAXATION

(CHAPTERS 34-51 IN VOLUME 26B; CHAPTERS 52-57 IN VOLUME 27A; CHAPTERS 58-82 IN VOLUME 27B)

SUBTITLE 2. ADMINISTRATION OF STATE TAXES

CHAPTER.

18. STATE TAX PROCEDURE GENERALLY.

SUBTITLE 3. ADMINISTRATION OF LOCAL TAXES

CHAPTER.

24. ARKANSAS PUBLIC SERVICE COMMISSION.

26. ASSESSMENT OF TAXES.

28. TAX BOOKS AND RECORDS.

SUBTITLE 2. ADMINISTRATION OF STATE TAXES

CHAPTER 18

STATE TAX PROCEDURE GENERALLY

SUBCHAPTER.

3. ADMINISTRATION GENERALLY.

4. ASSESSMENTS.

5. LIABILITY AND PAYMENT.

6. LICENSES, PERMITS, AND REGISTRATIONS.

7. ENFORCEMENT.

10. BUSINESS CLOSURE.

11. INDEPENDENT TAX APPEALS COMMISSION ACT.

SUBCHAPTER 3 — ADMINISTRATION GENERALLY

SECTION.

26-18-303. Records confidential and privileged — Exceptions. [Effective until January 1, 2022.]

26-18-303. Records confidential and privileged — Exceptions. [Effective January 1, 2022, and until January 1, 2023.]

SECTION.

26-18-303. Records confidential and privileged — Exceptions. [Effective January 1, 2023.]

26-18-307. Notice requirements. [Effective January 1, 2023.]

26-18-314. Transparency. [Effective January 1, 2023.]

Effective Dates. Acts 2021, No. 523, § 26: Apr. 1, 2021. Effective date clause provided: "It is found and determined by the General Assembly that Acts 2019, No. 819 transferred collection and administration of corporate franchise tax from the Secretary of State to the Department of Finance and Administration; that this transfer has created hardships and compliance issues for Arkansas taxpayers; that these issues necessitate the immediate return of the collection and administration of the franchise tax back to the Secretary of State; that Acts 2019, No. 819 will take effect on May 1, 2021; and that the immediate return of the franchise tax collection responsibilities to the Secretary of State will prevent further tax compliance issues for Arkansas taxpayers. Therefore, an emergency is declared to exist, and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor. (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto."

Acts 2021, No. 593, § 41: Jan. 1, 2023.
Acts 2021, No. 593, § 42, provided:
"Legislative intent — Contingent effectiveness."

"(a) The General Assembly intends for this act to be effective only if the Arkansas Code is amended to expressly authorize, implement, and enable the hearing and determination of tax appeals by the Tax Appeals Commission under the Arkansas Tax Procedure Act, § 26-18-101 et seq., the Independent Tax Appeals Commission Act, § 26-18-1101 et seq., and any other relevant laws.

"(b)(1) This act shall not become effective unless HB1468 of 2021 is enacted during the Ninety-Third Regular Session of the General Assembly.

"(2) If HB1468 of 2021 is not enacted during the Ninety-Third Regular Session of the General Assembly, this act expires retroactively upon the sine die adjournment of the Ninety-Third Regular Session of the General Assembly." House Bill 1468 was enacted during the Ninety-Third Regular Session and became Acts 2021, No. 586, on April 6, 2021.

Acts 2021, No. 776, § 2: Jan. 1, 2022.

Acts 2021, No. 876, § 3: Jan. 1, 2022.

Acts 2021, No. 1059, § 2: Jan. 1, 2022.

26-18-303. Records confidential and privileged — Exceptions. **[Effective until January 1, 2022.]**

(a)(1) The Secretary of the Department of Finance and Administration is the official custodian of all records and files required by any state tax law to be filed with the Secretary of the Department of Finance and Administration and is required to take all steps necessary to maintain their confidentiality.

(2)(A)(i) Except as otherwise provided by this chapter, the records and files of the Secretary of the Department of Finance and Administration concerning the administration of any state tax law are confidential and privileged.

(ii) These records and files and any information obtained from these records or files or from any examination or inspection of the premises or property of any taxpayer shall not be divulged or disclosed by the Secretary of the Department of Finance and Administration or any other person who may have obtained these records and files.

(B) It is the specific intent of this chapter that all tax returns, audit reports, and information pertaining to any tax returns, whether filed by individuals, corporations, partnerships, or fiduciaries, shall

not be subject to the provisions of the Freedom of Information Act of 1967, § 25-19-101 et seq.

(b) The provisions against disclosures shall not apply to the following:

(1) Publication of statistics by the Secretary of the Department of Finance and Administration classified to prevent the identification of a particular taxpayer;

(2) Use of the information in records filed under any state tax law by the Secretary of the Department of Finance and Administration when conducting any audit or investigation of any taxpayer in regard to any state tax;

(3)(A) Disclosure of information to the Attorney General of this state, any prosecuting attorney, or any other individual who is empowered by law to prosecute criminal and civil violations of any state tax law.

(B) Information disclosed under subdivision (b)(3)(A) of this section may be introduced as evidence by the Attorney General, a prosecuting attorney, or other individual so empowered when the individual is prosecuting any civil or criminal violation of state tax law;

(4)(A) Disclosure of information compelled by a judge in an Arkansas circuit court, the Supreme Court, or the Court of Appeals, or by any federal court.

(B) Disclosure of information under subdivision (b)(4)(A) of this section is limited to the disclosure of information in a case or controversy before the judge compelling the disclosure of the information;

(5) Disclosure by the taxpayer or the taxpayer's authorized agent or by the Secretary of the Department of Finance and Administration, at the taxpayer's request, of any information which the Secretary of the Department of Finance and Administration has concerning that taxpayer;

(6) Disclosure by the Secretary of the Department of Finance and Administration, at the Secretary of the Department of Finance and Administration's discretion, of information from the records of any state tax law to comparable officials of any other state or the United States who are charged with the administration of a similar tax;

(7) Disclosure of motor vehicle titling and registration information, all licenses and permits issued to owners and operators of coin-operated amusement machines pursuant to §§ 26-57-402, 26-57-408 — 26-57-421, and 26-77-303, and tax records, files, and other information relating to sales of aviation fuel at airports and other aviation fuel outlets;

(8) Disclosure of information at an administrative hearing held under the Arkansas Tax Procedure Act, § 26-18-101 et seq., or in a judicial proceeding in which the Secretary of the Department of Finance and Administration is a party;

(9)(A) Disclosure to the Student Loan Authority Division of the Arkansas Development Finance Authority, the Division of Higher

Education, the Student Loan Guarantee Foundation of Arkansas, or any Arkansas public institution of higher education of the last known address or whereabouts or the last known employer of any person from whom these agencies are charged with collecting a student loan or other student indebtedness.

(B) In providing such information, the Secretary of the Department of Finance and Administration shall not allow the Student Loan Authority Division of the Arkansas Development Finance Authority, the Student Loan Guarantee Foundation of Arkansas, the Division of Higher Education, or any Arkansas public institution of higher education to examine the tax return;

(10)(A) In order to ensure proper payment to vendors by all agencies of state government or by county governments or city governments, information about the receipt or nonreceipt of sales tax permits by vendors must be made available by the Secretary of the Department of Finance and Administration upon request by these agencies of state government or by county governments or city governments.

(B) Therefore, notwithstanding any provision of this chapter or any other law to the contrary, in instances when state agencies, boards, commissions, and other branches of state government or county governments or city governments identify to the Secretary of the Department of Finance and Administration the identity of vendors receiving payments and ask the Secretary of the Department of Finance and Administration whether these vendors have been issued sales tax permits, the Secretary of the Department of Finance and Administration shall answer these inquiries;

(11) Disclosure of the name of any taxpayer and the amount of any tax credit, tax rebate, tax discount, or commission for the collection of a tax received by such taxpayer from the following tax incentive provisions:

(A) Discount for prompt payment, § 26-52-503;

(B) Economic Investment Tax Credit Act, § 26-52-701 et seq. [repealed];

(C) Steel mill tax incentives, §§ 26-52-901 — 26-52-903 and 26-52-912 — 26-52-914;

(D) Motor fuel shrinkage allowance, § 26-55-230(a)(1)(F);

(E) Commission for sale of stamps for cigarettes and the collection of cigarette taxes, § 26-57-236(f);

(F) Credit on severance tax of oil producer, § 26-58-204;

(G) Credit on severance tax of gas producer, § 26-58-205;

(H) Refund of motor fuel tax by municipal buses, § 26-55-401 et seq.;

(I) Refund of distillate special fuel tax to interstate users, §§ 26-56-214 and 26-56-215;

(J) Credit against severance tax for the discovery of a commercial oil pool, § 15-72-706;

(K) Native wines — subsidies, § 3-5-1001 et seq.;

(L) Native wines — incentive grants, § 3-5-901 et seq.;

(M) Consolidated Incentive Act of 2003, § 15-4-2701 et seq.; and

(N)(i) Any other tax incentive program enacted after January 1, 1991, that provides a tax credit, tax rebate, tax discount, or commission for the collection of a tax, with the exception of any benefits under the income tax laws of this state.

(ii) However, information that is subject to disclosure under the provisions of this subdivision (b)(11) shall not be disclosed if such information would give an advantage to competitors or bidders or if such information is exempt from disclosure under any other provision of law that exempts specified information from disclosure under any such law;

(12) Disclosure of the lists required by:

(A) Section 3-2-205(e)(4), reporting to the Alcoholic Beverage Control Division and the Alcoholic Beverage Control Board those taxpayers who hold a permit to sell alcoholic beverages and who are delinquent in state taxes; and

(B) Section 26-57-257(o)(2), reporting to the Arkansas Tobacco Control Board those taxpayers who hold a permit to sell tobacco products and cigarettes and who are delinquent in state taxes;

(13) Disclosure to the Tax Division of the Arkansas Public Service Commission of information contained in motor fuel tax records necessary to assess motor carrier companies for ad valorem taxation;

(14)(A) Disclosure of the following information concerning corporate franchise tax:

(i) The name and address of a corporation;

(ii) The name of a corporation's president, vice president, secretary, treasurer, and controller;

(iii) The total authorized capital stock with par value;

(iv) The total issued and outstanding capital stock with par value;

(v) The state of incorporation; and

(vi) Information necessary to identify corporations that paid franchise tax to the Secretary of the Department of Finance and Administration in lieu of payment to the Secretary of State for franchise tax reporting year 2021 under Acts 2019, No. 819.

(B) In the case of a franchise tax report filed by an organization formed under the Uniform Limited Liability Company Act, § 4-38-101 et seq., the confidentiality provision of subsection (a) of this section shall apply to the names of members of the organization, except those designated in the organization's franchise tax report as a manager, president, vice president, secretary, treasurer, or controller of the organization, unless the organization has no registered agent for service of process, in which case the confidentiality provisions of subsection (a) of this section shall not apply;

(15) Disclosure compelled by a subpoena issued by a state or federal prosecutor or grand jury or other state or federal entity with subpoena power;

(16)(A) Disclosure to county assessors of information that may affect personal property tax assessments, including information obtained

during the course of audits or investigations concerning motor vehicles, boats, trailers, airplanes, or other items of personal property that may be subject to assessment in that county.

(B) This information may be released only following completion of an audit or investigation by the Secretary of the Department of Finance and Administration and following a determination by the Secretary of the Department of Finance and Administration that there is a strong possibility the taxpayer has failed to properly assess the taxpayer's personal property in the county.

(C) In providing this information, the Secretary of the Department of Finance and Administration shall not allow the county assessors to examine any tax returns or audit records;

(17)(A) For the purpose of the timely and accurate collection of local sales and use tax and state income tax withholding for employees, disclosure of the name and address of a taxpayer that has failed three (3) times within any consecutive twenty-four-month period to either report or remit state or local gross receipts or compensating use tax or state income tax withholding for employees and has been served with a business closure order under § 26-18-1001 et seq.

(B) Disclosure shall be made by posting weekly on the website maintained by the Department of Finance and Administration the business name, business address, and city and county in which the business is located as it appears on the sales tax permit or the state income tax withholding for employees registration of each taxpayer identified in subdivision (b)(17)(A) of this section.

(C) The information posted on the website for a taxpayer shall remain on the website until that taxpayer is no longer subject to the business closure provisions of § 26-18-1001 et seq.;

(18)(A) Disclosure to the Arkansas Economic Development Commission of any information requested regarding a tax incentive program that provides a tax credit, tax rebate, tax discount, or other economic incentive that is jointly administered by the Arkansas Economic Development Commission and the Department of Finance and Administration.

(B) Any information received by the Arkansas Economic Development Commission under this section shall remain confidential and is not subject to disclosure except in accordance with this section;

(19) Disclosure of information to a bankruptcy trustee or to an employee of a bankruptcy trustee;

(20)(A) To perform audit and compliance duties, disclosure to the Division of Workforce Services of:

(i) Withholding tax information reported by companies doing business in Arkansas, including without limitation taxpayer names, taxpayer addresses, tax identification numbers, and tax withholding information; or

(ii) Information for the purpose of providing pandemic unemployment assistance to a worker who:

(a) Is self-employed;

(b) Is seeking part-time employment;

(c) Does not have sufficient work history; or

(d) Is otherwise unable to qualify for regular unemployment or extended benefits under state or federal law.

(B) Information received by the Division of Workforce Services under this section shall remain confidential and is not subject to disclosure except in accordance with this section;

(21) Disclosure of information, including disclosure as required under § 26-55-232, regarding delinquent motor fuel excise tax levied by the Motor Fuel Tax Law, § 26-55-201 et seq., and by § 26-56-601 et seq., to a bonding company that provides the surety bond required by § 26-55-222 for the taxpayer that owes the delinquent tax;

(22) Disclosure of information regarding delinquent distillate special fuel tax levied by § 26-56-201 et seq., and by § 26-56-601 et seq., to a bonding company that provides the surety bond required by § 26-56-204 for the taxpayer that owes the delinquent tax;

(23) Disclosure of information regarding delinquent liquefied gas special fuel tax levied by § 26-56-301 et seq. and by § 26-56-601 et seq. to a bonding company that provides the surety bond required by § 26-56-303 for the taxpayer that owes the delinquent tax;

(24)(A) Disclosure of information in the books of the Department of Finance and Administration concerning a taxpayer by the Department of Finance and Administration to a joint auditor employed under the authority of § 26-75-619 when the joint auditor requests the information.

(B) Information received by the joint auditor under subdivision (b)(24)(A) of this section shall remain confidential and is not subject to disclosure except in accordance with this section;

(25) Disclosure of information related to a business closure order under § 26-18-1001 et seq. to the Office of State Procurement for the purpose of carrying out §§ 19-11-281 and 19-11-1015;

(26) Disclosure of information for the purpose of tax collection in state and federal insolvency, reorganization, corporate dissolution, and other similar proceedings in which the Secretary of the Department of Finance and Administration is an interested party; and

(27) Disclosure to the Department of Human Services as required by § 20-76-215(c) or § 20-77-2104(c) to determine whether a change in circumstances has occurred that would affect the eligibility of an applicant for benefits under the Supplemental Nutrition Assistance Program or the Arkansas Medicaid Program.

(c) The provisions of this section shall be strictly interpreted and shall not permit any other disclosure of tax information concerning a taxpayer, whether the taxpayer is an individual, a corporation, a partnership, or a fiduciary, that is contained in the records and files of the Secretary of the Department of Finance and Administration relating to income tax or any other state tax administered under this chapter.

(d)(1) Any person who knowingly discloses information in violation of a provision of this section shall be guilty of a Class A misdemeanor.

(2) An employee of the state who is convicted of violating a provision of this section shall be discharged from employment in addition to any fine or imprisonment.

(e) Any person who knowingly obtains or attempts to obtain any of the confidential and privileged records and files of the Secretary of the Department of Finance and Administration who is not so permitted by law is guilty of a Class A misdemeanor.

(f) The Secretary of the Department of Finance and Administration shall report all violations of this section to the appropriate prosecuting attorney in this state.

(g)(1) The Secretary of the Department of Finance and Administration shall promulgate such rules as are necessary to establish a reasonable procedure for making requests for and release of information under subdivision (b)(11) of this section, for allowing a taxpayer reasonable notice in advance of the release of the requested information, for a period of time up to seven (7) days from the date a request for information is made to provide notice and make necessary determinations, and to provide the methods by which the Secretary of the Department of Finance and Administration shall determine if the information requested is subject to disclosure under Arkansas law.

(2) The provisions of this section shall solely govern the release of information under subdivision (b)(11) of this section, and the release of information shall not be subject to the Freedom of Information Act of 1967, § 25-19-101 et seq.

(h)(1) Upon the request of a county government or a city government, the Secretary of the Department of Finance and Administration shall provide a list of vendors within the requesting county or city who hold permits issued pursuant to the Arkansas Gross Receipts Act of 1941, § 26-52-101 et seq.

(2) Requests made pursuant to this subsection must be made in writing by an official of the county government or city government prior to August 1 of the calendar year for which the list is requested.

(3) Lists provided pursuant to the provisions of this subsection will be made available following October 1 of the year requested and will be compiled from the list of all valid sales tax permit holders within the requesting county or city as of September 1 of the year requested.

(4)(A) A reasonable fee based upon the number of permit holders within the requesting city or county may be charged for the permit search made and reported to the requesting county or city government.

(B) Fees collected under the provisions of this subsection shall be deposited into the State Central Services Fund to be treated as a refund of expenditures to reimburse the Department of Finance and Administration for the costs of providing the requested information.

(i)(1) The Secretary of the Department of Finance and Administration may disclose information from a return filed by a person, partnership, corporation, trust, or estate to any of the parties who signed the return:

(A) Who is the administrator, executor, or trustee of the estate filing the return;

(B) Who was a member of the partnership filing the return during any part of the period covered by the return;

(C) Who is a trustee or beneficiary of the trust filing the return;

(D) Who is an officer or bona fide shareholder of record owning one percent (1%) or more of the outstanding stock of the corporation filing the return;

(E) Who was a shareholder during any part of the period covered by the return filed by a Subchapter S corporation;

(F) Who was a member of the partnership during any part of the period covered by the partnership return; or

(G) Who is the attorney in fact duly authorized in writing by any of the persons described in subdivisions (i)(1)(A)-(F) of this section.

(2) The Secretary of the Department of Finance and Administration may also disclose all information concerning the collection activity related to a tax return to any party who signed the return.

(3) The Secretary of the Department of Finance and Administration shall promulgate such rules as are necessary to establish a reasonable procedure for making requests for and for the release of information under this section.

(j)(1) The General Assembly finds that:

(A) The collection of cigarette and other tobacco products taxes and the enforcement of the Arkansas Tobacco Products Tax Act of 1977, § 26-57-201 et seq., §§ 26-57-260 and 26-57-261, and §§ 26-57-1301 — 26-57-1307, affect the fiscal soundness of the state and the public health;

(B) The Attorney General and the Director of Arkansas Tobacco Control play an important role in the enforcement of the state's tobacco laws; and

(C) The sharing of documents and other information between the Secretary of the Department of Finance and Administration, the Attorney General, and the director will put the state in a better position to prevent tobacco diversion and prevent cigarettes from being sold to youth and an already addicted adult population.

(2) The Secretary of the Department of Finance and Administration may disclose documents and other information submitted by stamp deputies appointed under § 26-57-236 or those persons licensed or permitted under the terms of the Arkansas Tobacco Products Tax Act of 1977, § 26-57-201 et seq., to the Attorney General or the director upon the request of the Attorney General or the director.

(3)(A) The documents and other information provided under this subsection shall not be disclosed by the Attorney General or the director to a person other than a person specifically authorized by the Attorney General or the director to receive the documents or other information.

(B) However, the Attorney General and the director may share the documents and other information provided under this subsection

with the taxing authorities or law enforcement agencies of Arkansas or another state or with any other entity permitted by the Attorney General to aggregate the documents and other information, if the parties agree to the confidentiality requirements under this subsection.

(4)(A) The Attorney General and the director may use the documents and other information provided under this subsection by the Secretary of the Department of Finance and Administration in proceedings before any court.

(B)(i) However, the documents and other information shall not be presented in court except with the approval of the court in which the action is pending and after adequate notice to the person who initially furnished the documents or other information to the Secretary of the Department of Finance and Administration.

(ii) When confidential information is presented with court approval, the documents and other information and the related evidence shall be held in camera and shall be part of the court record or trial transcript only if under seal.

History. Acts 1979, No. 401, § 6; 1981, No. 854, § 1; 1983, No. 673, § 2; 1983, No. 694, §§ 1, 2; 1985, No. 694, § 1; A.S.A. 1947, §§ 84-4706 — 84-4706.2; Acts 1987, No. 382, §§ 29, 30; 1991, No. 400, §§ 1, 2; 1993, No. 403, § 21; 1993, No. 1018, § 2; 1993, No. 1159, § 1; 1995, No. 1276, §§ 1-3; 1997, No. 1039, § 1; 1999, No. 1126, § 13; 1999, No. 1277, § 9; 1999, No. 1598, § 1; 2001, No. 565, § 1; 2001, No. 1368, § 1; 2003, No. 860, § 10; 2005, No. 1294, § 1; 2007, No. 437, § 1; 2007, No. 827, § 196; 2007, No. 865, § 1; 2009, No. 272, § 1; 2009, No. 360, § 2; 2009, No. 504, § 2; 2009, No. 655, § 1; 2011, No. 788, § 2; 2011, No. 836, § 1; 2011, No. 983, § 1; 2013, No. 712, § 1; 2013, No. 1143, § 2; 2017, No. 426, § 15; 2017, No. 435, § 1; 2019, No. 315, §§ 2939, 2940; 2019, No. 819, § 15; 2019, No. 866, § 3; 2019, No. 910, §§ 2393, 3612-3625; 2021, No. 523, § 14; 2021, No. 732, §§ 1-5; 2021, No. 780, § 6; 2021, No. 1041, §§ 31, 32.

A.C.R.C. Notes. Acts 2021, No. 523, § 1, provided: "Legislative findings and intent.

"(a) The General Assembly finds that:

"(1) Acts 2019, No. 819 will transfer responsibility for franchise tax collection and administration from the Secretary of State to the Department of Finance and Administration on May 1, 2021;

"(2) In an effort to achieve a more seamless transition, the department began collecting and administering the fran-

chise tax on January 1, 2021, under a Memorandum of Understanding with the Secretary of State;

"(3) The transfer of franchise tax collection and administration has negatively impacted Arkansas taxpayers as they seek to comply with their franchise tax obligations; and

"(4) Unless franchise tax collection and administration responsibilities are immediately transferred from department back to the Secretary of State, Arkansas taxpayers will face significant difficulties as they seek to comply with Arkansas franchise tax laws.

"(b) It is the intent of the General Assembly:

"(1) To reverse the effects of certain provisions in Acts 2019, No. 819 by transferring the administration and collection of the franchise tax from the department back to the Secretary of State;

"(2) That the Secretary of State should continue to administer the collection of franchise tax; and

"(3) To accomplish this transfer in a manner that results in minimal impact to Arkansas taxpayers."

Publisher's Notes. Acts 2021, No. 523, § 14, effective April 1, 2021, specifically amended this section as amended by Acts 2019, No. 819, § 15, and effective on and after May 1, 2021.

For text of section effective January 1, 2022, and until January 1, 2023, see the following version.

Amendments. The 2021 amendment by No. 523 rewrote (b)(14)(A)(vi); and deleted (b)(14)(B)(ii) and removed the designation for (b)(14)(B)(i).

The 2021 amendment by No. 732 deleted “when the Secretary of the Department of Finance and Administration initiates the investigation” following “state tax law” in (b)(3)(A); deleted (b)(3)(B); redesignated former (b)(3)(C) as (b)(3)(B); inserted “disclosed under subdivision (b)(3)(A) of this section” in (b)(3)(B); re-

wrote and redesignated former (b)(4) as (b)(4)(A); added (b)(4)(B); rewrote (b)(8); redesignated part of (b)(20)(A) as (b)(20)(A)(i); added (b)(20)(A)(ii); and added (b)(26).

The 2021 amendment by No. 780 added (b)(27).

The 2021 amendment by No. 1041 substituted “Uniform Limited Liability Company Act, § 4-38-101 et seq.” for “Small Business Entity Tax Pass Through Act, § 4-32-101 et seq.” in (b)(14)(B).

26-18-303. Records confidential and privileged — Exceptions. **[Effective January 1, 2022, and until January 1, 2023.]**

(a)(1) The Secretary of the Department of Finance and Administration is the official custodian of all records and files required by any state tax law to be filed with the Secretary of the Department of Finance and Administration and is required to take all steps necessary to maintain their confidentiality.

(2)(A)(i) Except as otherwise provided by this chapter, the records and files of the Secretary of the Department of Finance and Administration concerning the administration of any state tax law are confidential and privileged.

(ii) Except as otherwise provided in this section, these records and files and any information obtained from these records or files or from any examination or inspection of the premises or property of any taxpayer shall not be divulged or disclosed by the Secretary of the Department of Finance and Administration or any other person who may have obtained these records and files.

(B) It is the specific intent of this chapter that all tax returns, audit reports, and information pertaining to any tax returns, whether filed by individuals, corporations, partnerships, or fiduciaries, shall not be subject to the provisions of the Freedom of Information Act of 1967, § 25-19-101 et seq.

(b) The provisions against disclosures shall not apply to the following:

(1) Publication of statistics by the Secretary of the Department of Finance and Administration classified to prevent the identification of a particular taxpayer;

(2) Use of the information in records filed under any state tax law by the Secretary of the Department of Finance and Administration when conducting any audit or investigation of any taxpayer in regard to any state tax;

(3)(A) Disclosure of information to the Attorney General of this state, any prosecuting attorney, or any other individual who is empowered by law to prosecute criminal and civil violations of any state tax law.

(B) Information disclosed under subdivision (b)(3)(A) of this section may be introduced as evidence by the Attorney General, a

prosecuting attorney, or other individual so empowered when the individual is prosecuting any civil or criminal violation of state tax law;

(4)(A) Disclosure of information compelled by a judge in an Arkansas circuit court, the Supreme Court, or the Court of Appeals, or by any federal court.

(B) Disclosure of information under subdivision (b)(4)(A) of this section is limited to the disclosure of information in a case or controversy before the judge compelling the disclosure of the information;

(5) Disclosure by the taxpayer or the taxpayer's authorized agent or by the Secretary of the Department of Finance and Administration, at the taxpayer's request, of any information which the Secretary of the Department of Finance and Administration has concerning that taxpayer;

(6) Disclosure by the Secretary of the Department of Finance and Administration, at the Secretary of the Department of Finance and Administration's discretion, of information from the records of any state tax law to comparable officials of any other state or the United States who are charged with the administration of a similar tax;

(7) Disclosure of motor vehicle titling and registration information, all licenses and permits issued to owners and operators of coin-operated amusement machines pursuant to §§ 26-57-402, 26-57-408 — 26-57-421, and 26-77-303, and tax records, files, and other information relating to sales of aviation fuel at airports and other aviation fuel outlets;

(8) Disclosure of information at an administrative hearing held under the Arkansas Tax Procedure Act, § 26-18-101 et seq., or in a judicial proceeding in which the Secretary of the Department of Finance and Administration is a party;

(9)(A) Disclosure to the Student Loan Authority Division of the Arkansas Development Finance Authority, the Division of Higher Education, the Student Loan Guarantee Foundation of Arkansas, or any Arkansas public institution of higher education of the last known address or whereabouts or the last known employer of any person from whom these agencies are charged with collecting a student loan or other student indebtedness.

(B) In providing such information, the Secretary of the Department of Finance and Administration shall not allow the Student Loan Authority Division of the Arkansas Development Finance Authority, the Student Loan Guarantee Foundation of Arkansas, the Division of Higher Education, or any Arkansas public institution of higher education to examine the tax return;

(10)(A) In order to ensure proper payment to vendors by all agencies of state government or by county governments or city governments, information about the receipt or nonreceipt of sales tax permits by vendors must be made available by the Secretary of the Department of Finance and Administration upon request by these agencies of state government or by county governments or city governments.

(B) Therefore, notwithstanding any provision of this chapter or any other law to the contrary, in instances when state agencies, boards, commissions, and other branches of state government or county governments or city governments identify to the Secretary of the Department of Finance and Administration the identity of vendors receiving payments and ask the Secretary of the Department of Finance and Administration whether these vendors have been issued sales tax permits, the Secretary of the Department of Finance and Administration shall answer these inquiries;

(11) Disclosure of the name of any taxpayer and the amount of any tax credit, tax rebate, tax discount, or commission for the collection of a tax received by such taxpayer from the following tax incentive provisions:

(A) Discount for prompt payment, § 26-52-503;

(B) Economic Investment Tax Credit Act, § 26-52-701 et seq. [repealed];

(C) Steel mill tax incentives, §§ 26-52-901 — 26-52-903 and 26-52-912 — 26-52-914;

(D) Motor fuel shrinkage allowance, § 26-55-230(a)(1)(F);

(E) Commission for sale of stamps for cigarettes and the collection of cigarette taxes, § 26-57-236(f);

(F) Credit on severance tax of oil producer, § 26-58-204;

(G) Credit on severance tax of gas producer, § 26-58-205;

(H) Refund of motor fuel tax by municipal buses, § 26-55-401 et seq.;

(I) Refund of distillate special fuel tax to interstate users, §§ 26-56-214 and 26-56-215;

(J) Credit against severance tax for the discovery of a commercial oil pool, § 15-72-706;

(K) Native wines — subsidies, § 3-5-1001 et seq.;

(L) Native wines — incentive grants, § 3-5-901 et seq.;

(M) Consolidated Incentive Act of 2003, § 15-4-2701 et seq.; and

(N)(i) Any other tax incentive program enacted after January 1, 1991, that provides a tax credit, tax rebate, tax discount, or commission for the collection of a tax, with the exception of any benefits under the income tax laws of this state.

(ii) However, information that is subject to disclosure under the provisions of this subdivision (b)(11) shall not be disclosed if such information would give an advantage to competitors or bidders or if such information is exempt from disclosure under any other provision of law that exempts specified information from disclosure under any such law;

(12) Disclosure of the lists required by:

(A) Section 3-2-205(e)(4), reporting to the Alcoholic Beverage Control Division and the Alcoholic Beverage Control Board those taxpayers who hold a permit to sell alcoholic beverages and who are delinquent in state taxes; and

(B) Section 26-57-257(o)(2), reporting to the Arkansas Tobacco Control Board those taxpayers who hold a permit to sell tobacco products and cigarettes and who are delinquent in state taxes;

(13) Disclosure to the Tax Division of the Arkansas Public Service Commission of information contained in motor fuel tax records necessary to assess motor carrier companies for ad valorem taxation;

(14)(A) Disclosure of the following information concerning corporate franchise tax:

(i) The name and address of a corporation;

(ii) The name of a corporation's president, vice president, secretary, treasurer, and controller;

(iii) The total authorized capital stock with par value;

(iv) The total issued and outstanding capital stock with par value;

(v) The state of incorporation; and

(vi) Information necessary to identify corporations that paid franchise tax to the Secretary of the Department of Finance and Administration in lieu of payment to the Secretary of State for franchise tax reporting year 2021 under Acts 2019, No. 819.

(B) In the case of a franchise tax report filed by an organization formed under the Uniform Limited Liability Company Act, § 4-38-101 et seq., the confidentiality provision of subsection (a) of this section shall apply to the names of members of the organization, except those designated in the organization's franchise tax report as a manager, president, vice president, secretary, treasurer, or controller of the organization, unless the organization has no registered agent for service of process, in which case the confidentiality provisions of subsection (a) of this section shall not apply;

(15) Disclosure compelled by a subpoena issued by a state or federal prosecutor or grand jury or other state or federal entity with subpoena power;

(16)(A) Disclosure to county assessors of information that may affect personal property tax assessments, including information obtained during the course of audits or investigations concerning motor vehicles, boats, trailers, airplanes, or other items of personal property that may be subject to assessment in that county.

(B) This information may be released only following completion of an audit or investigation by the Secretary of the Department of Finance and Administration and following a determination by the Secretary of the Department of Finance and Administration that there is a strong possibility the taxpayer has failed to properly assess the taxpayer's personal property in the county.

(C) In providing this information, the Secretary of the Department of Finance and Administration shall not allow the county assessors to examine any tax returns or audit records;

(17)(A) For the purpose of the timely and accurate collection of local sales and use tax and state income tax withholding for employees, disclosure of the name and address of a taxpayer that has failed three (3) times within any consecutive twenty-four-month period to either

report or remit state or local gross receipts or compensating use tax or state income tax withholding for employees and has been served with a business closure order under § 26-18-1001 et seq.

(B) Disclosure shall be made by posting weekly on the website maintained by the Department of Finance and Administration the business name, business address, and city and county in which the business is located as it appears on the sales tax permit or the state income tax withholding for employees registration of each taxpayer identified in subdivision (b)(17)(A) of this section.

(C) The information posted on the website for a taxpayer shall remain on the website until that taxpayer is no longer subject to the business closure provisions of § 26-18-1001 et seq.;

(18)(A) Disclosure to the Arkansas Economic Development Commission of any information requested regarding a tax incentive program that provides a tax credit, tax rebate, tax discount, or other economic incentive that is jointly administered by the Arkansas Economic Development Commission and the Department of Finance and Administration.

(B) Any information received by the Arkansas Economic Development Commission under this section shall remain confidential and is not subject to disclosure except in accordance with this section;

(19) Disclosure of information to a bankruptcy trustee or to an employee of a bankruptcy trustee;

(20)(A) To perform audit and compliance duties, disclosure to the Division of Workforce Services of:

(i) Withholding tax information reported by companies doing business in Arkansas, including without limitation taxpayer names, taxpayer addresses, tax identification numbers, and tax withholding information; or

(ii) Information for the purpose of providing pandemic unemployment assistance to a worker who:

(a) Is self-employed;

(b) Is seeking part-time employment;

(c) Does not have sufficient work history; or

(d) Is otherwise unable to qualify for regular unemployment or extended benefits under state or federal law.

(B) Information received by the Division of Workforce Services under this section shall remain confidential and is not subject to disclosure except in accordance with this section;

(21) Disclosure of information, including disclosure as required under § 26-55-232, regarding delinquent motor fuel excise tax levied by the Motor Fuel Tax Law, § 26-55-201 et seq., and by § 26-56-601 et seq., to a bonding company that provides the surety bond required by § 26-55-222 for the taxpayer that owes the delinquent tax;

(22) Disclosure of information regarding delinquent distillate special fuel tax levied by § 26-56-201 et seq., and by § 26-56-601 et seq., to a bonding company that provides the surety bond required by § 26-56-204 for the taxpayer that owes the delinquent tax;

(23) Disclosure of information regarding delinquent liquefied gas special fuel tax levied by § 26-56-301 et seq. and by § 26-56-601 et seq. to a bonding company that provides the surety bond required by § 26-56-303 for the taxpayer that owes the delinquent tax;

(24)(A) Disclosure of information in the books of the Department of Finance and Administration concerning a taxpayer by the Department of Finance and Administration to a joint auditor employed under the authority of § 26-75-619 when the joint auditor requests the information.

(B) Information received by the joint auditor under subdivision (b)(24)(A) of this section shall remain confidential and is not subject to disclosure except in accordance with this section;

(25) Disclosure of information related to a business closure order under § 26-18-1001 et seq. to the Office of State Procurement for the purpose of carrying out §§ 19-11-281 and 19-11-1015;

(26) Disclosure of information for the purpose of tax collection in state and federal insolvency, reorganization, corporate dissolution, and other similar proceedings in which the Secretary of the Department of Finance and Administration is an interested party;

(27) Disclosure to the Department of Human Services as required by § 20-76-215(c) or § 20-77-2104(c) to determine whether a change in circumstances has occurred that would affect the eligibility of an applicant for benefits under the Supplemental Nutrition Assistance Program or the Arkansas Medicaid Program; and

(28)(A) For the purpose of providing information to municipalities and counties, disclosure to a city or county of a monthly electronic report showing the city's or county's gross receipts and compensating or use tax revenues generated within the boundaries of the city or county.

(B) The electronic report shall list:

(i) The total number of holders of a gross receipts tax permit that remitted gross receipts or compensating use tax in the city or county;

(ii) The amount of tax revenue generated by reference to the North American Industry Classification System four-digit code; and

(iii) The total number of holders of a gross receipts tax permit for each four-digit code number.

(C) A request made by a city or county for the report under subdivision (b)(28)(A) of this section:

(i) May be made at any time; and

(ii) Shall be submitted electronically by an official of the city or county.

(D) In order to receive a report under subdivision (b)(28)(A) of this section, the city or county making the request shall register for an account with the Arkansas Taxpayer Access Point or its successor.

(E) The Department of Finance and Administration shall not discuss any details of the information within an electronic report provided under this subdivision (b)(28) with a representative of the city or county or with a third party.

(F) Upon receiving a political subdivision's request for the information referenced in subdivision (b)(28)(A) of this section, the Secretary of the Department of Finance and Administration shall make the information for the current period available as soon as practicable but no later than thirty (30) days after receiving the request.

(G) Information a political subdivision receives from the Secretary of the Department of Finance and Administration in response to a request under this subdivision (b)(28) shall remain confidential and shall be exempt from the Freedom of Information Act of 1967, § 25-19-101 et seq.

(c) The provisions of this section shall be strictly interpreted and shall not permit any other disclosure of tax information concerning a taxpayer, whether the taxpayer is an individual, a corporation, a partnership, or a fiduciary, that is contained in the records and files of the Secretary of the Department of Finance and Administration relating to income tax or any other state tax administered under this chapter.

(d)(1) Any person who knowingly discloses information in violation of a provision of this section shall be guilty of a Class A misdemeanor.

(2) An employee of the state who is convicted of violating a provision of this section shall be discharged from employment in addition to any fine or imprisonment.

(e) Any person who knowingly obtains or attempts to obtain any of the confidential and privileged records and files of the Secretary of the Department of Finance and Administration who is not so permitted by law is guilty of a Class A misdemeanor.

(f) The Secretary of the Department of Finance and Administration shall report all violations of this section to the appropriate prosecuting attorney in this state.

(g)(1) The Secretary of the Department of Finance and Administration shall promulgate such rules as are necessary to establish a reasonable procedure for making requests for and release of information under subdivision (b)(11) of this section, for allowing a taxpayer reasonable notice in advance of the release of the requested information, for a period of time up to seven (7) days from the date a request for information is made to provide notice and make necessary determinations, and to provide the methods by which the Secretary of the Department of Finance and Administration shall determine if the information requested is subject to disclosure under Arkansas law.

(2) The provisions of this section shall solely govern the release of information under subdivision (b)(11) of this section, and the release of information shall not be subject to the Freedom of Information Act of 1967, § 25-19-101 et seq.

(h)(1) Upon the request of a county government or a city government, the Secretary of the Department of Finance and Administration shall provide a list of vendors within the requesting county or city who hold permits issued pursuant to the Arkansas Gross Receipts Act of 1941, § 26-52-101 et seq.

(2) Requests made pursuant to this subsection must be made in writing by an official of the county government or city government prior to August 1 of the calendar year for which the list is requested.

(3) Lists provided pursuant to the provisions of this subsection will be made available following October 1 of the year requested and will be compiled from the list of all valid sales tax permit holders within the requesting county or city as of September 1 of the year requested.

(4)(A) A reasonable fee based upon the number of permit holders within the requesting city or county may be charged for the permit search made and reported to the requesting county or city government.

(B) Fees collected under the provisions of this subsection shall be deposited into the State Central Services Fund to be treated as a refund of expenditures to reimburse the Department of Finance and Administration for the costs of providing the requested information.

(i)(1) The Secretary of the Department of Finance and Administration may disclose information from a return filed by a person, partnership, corporation, trust, or estate to any of the parties who signed the return:

(A) Who is the administrator, executor, or trustee of the estate filing the return;

(B) Who was a member of the partnership filing the return during any part of the period covered by the return;

(C) Who is a trustee or beneficiary of the trust filing the return;

(D) Who is an officer or bona fide shareholder of record owning one percent (1%) or more of the outstanding stock of the corporation filing the return;

(E) Who was a shareholder during any part of the period covered by the return filed by a Subchapter S corporation;

(F) Who was a member of the partnership during any part of the period covered by the partnership return; or

(G) Who is the attorney in fact duly authorized in writing by any of the persons described in subdivisions (i)(1)(A)-(F) of this section.

(2) The Secretary of the Department of Finance and Administration may also disclose all information concerning the collection activity related to a tax return to any party who signed the return.

(3) The Secretary of the Department of Finance and Administration shall promulgate such rules as are necessary to establish a reasonable procedure for making requests for and for the release of information under this section.

(j)(1) The General Assembly finds that:

(A) The collection of cigarette and other tobacco products taxes and the enforcement of the Arkansas Tobacco Products Tax Act of 1977, § 26-57-201 et seq., §§ 26-57-260 and 26-57-261, and §§ 26-57-1301 — 26-57-1307, affect the fiscal soundness of the state and the public health;

(B) The Attorney General and the Director of Arkansas Tobacco Control play an important role in the enforcement of the state's tobacco laws; and

(C) The sharing of documents and other information between the Secretary of the Department of Finance and Administration, the Attorney General, and the director will put the state in a better position to prevent tobacco diversion and prevent cigarettes from being sold to youth and an already addicted adult population.

(2) The Secretary of the Department of Finance and Administration may disclose documents and other information submitted by stamp deputies appointed under § 26-57-236 or those persons licensed or permitted under the terms of the Arkansas Tobacco Products Tax Act of 1977, § 26-57-201 et seq., to the Attorney General or the director upon the request of the Attorney General or the director.

(3)(A) The documents and other information provided under this subsection shall not be disclosed by the Attorney General or the director to a person other than a person specifically authorized by the Attorney General or the director to receive the documents or other information.

(B) However, the Attorney General and the director may share the documents and other information provided under this subsection with the taxing authorities or law enforcement agencies of Arkansas or another state or with any other entity permitted by the Attorney General to aggregate the documents and other information, if the parties agree to the confidentiality requirements under this subsection.

(4)(A) The Attorney General and the director may use the documents and other information provided under this subsection by the Secretary of the Department of Finance and Administration in proceedings before any court.

(B)(i) However, the documents and other information shall not be presented in court except with the approval of the court in which the action is pending and after adequate notice to the person who initially furnished the documents or other information to the Secretary of the Department of Finance and Administration.

(ii) When confidential information is presented with court approval, the documents and other information and the related evidence shall be held in camera and shall be part of the court record or trial transcript only if under seal.

(k)(1) The Department of Finance and Administration shall prepare and deliver a report of the awarded amounts of credit or rebate of sales and use tax under §§ 26-52-427, 26-52-523, and 26-53-138 to each city government and county government impacted by the award of the credit or rebate of sales and use tax.

(2) The report required under subdivision (k)(1) of this section shall be delivered electronically on a monthly basis and shall include the name of the taxpayer and the amount of the credit or rebate awarded.

(3) In order to receive the report, a city government or county government shall register for an account with the Arkansas Taxpayer Access Point or its successor.

(4) The Department of Finance and Administration shall not discuss any details of individual claims within a report provided under this

subsection with the city government, the county government, or a third party.

(5) Information received by a city government or county government under this subsection shall remain confidential and is not subject to disclosure except in accordance with this section.

(1)(1) The General Assembly finds that:

(A) The ability of the Bureau of Legislative Research to assist the General Assembly in state budgeting and forecasting matters is important to the performance of the General Assembly's duties and the fiscal soundness of the state;

(B) The General Assembly plays an essential role in determining the fiscal needs of the state, and the Bureau of Legislative Research provides important assistance to the General Assembly in its performance of that role;

(C) To ensure the Bureau of Legislative Research can provide accurate and complete information and analysis to the General Assembly in order to assist the General Assembly in its duty to set state appropriation amounts, it is essential that the Bureau of Legislative Research have direct access to the nonconfidential aggregate and statistical information that would inform state budgeting and forecasting; and

(D) The sharing of information between the Secretary of the Department of Finance and Administration and the Bureau of Legislative Research will enable the General Assembly to better serve the fiscal needs of the state.

(2)(A) The Secretary of the Department of Finance and Administration shall provide the Bureau of Legislative Research with direct access to nonconfidential aggregate and statistical information derived from state tax collection and administration records for use in state budgeting and forecasting and the preparation of fiscal impact statements on proposed legislation.

(B) The information disclosed under subdivision (1)(2)(A) of this section shall not contain:

(i) Personally identifiable or confidential taxpayer information, including without limitation a taxpayer's:

- (a) Name;
- (b) Address;
- (c) Date of birth;
- (d) Taxpayer identification number;
- (e) Social Security number;
- (f) Driver's license number;
- (g) Vehicle identification number;
- (h) License plate number;
- (i) Telephone number;
- (j) Email address; or
- (k) Financial institution information;

(ii) Tax return, audit report, or information or documents pertaining to a tax return or audit report;

(iii) Federal tax information, including without limitation:

(a) A return as defined under 26 U.S.C. § 6103(b)(1), as it existed on January 1, 2021;

(b) Return information as defined under 26 U.S.C. § 6103(b)(2), as it existed on January 1, 2021; and

(c) Taxpayer return information as defined under 26 U.S.C. § 6103(b)(3), as it existed on January 1, 2021; or

(iv) Any information or document determined to be confidential by the Secretary of the Department of Finance and Administration under state or federal law.

(3)(A) The documents and other information that the Bureau of Legislative Research has access to under this subsection shall not be disclosed by the Bureau of Legislative Research to a person other than a person specifically authorized by law to receive the documents or other information.

(B) The Bureau of Legislative Research may:

(i) Disclose information in the same manner as provided in subdivisions (b)(1), (b)(11), and (b)(14) of this section;

(ii)(a) Provide access to the documents and other information to which the Bureau of Legislative Research has access under this section to any consultant retained by the Bureau of Legislative Research.

(b) Any information obtained by a consultant retained by the Bureau of Legislative Research under this section shall be kept confidential and shall not be disclosed by the consultant; and

(iii) Provide analysis of the documents and information to which it has access under this section to the General Assembly and any consultants retained by the Bureau of Legislative Research.

History. Acts 1979, No. 401, § 6; 1981, No. 854, § 1; 1983, No. 673, § 2; 1983, No. 694, §§ 1, 2; 1985, No. 694, § 1; A.S.A. 1947, §§ 84-4706 — 84-4706.2; Acts 1987, No. 382, §§ 29, 30; 1991, No. 400, §§ 1, 2; 1993, No. 403, § 21; 1993, No. 1018, § 2; 1993, No. 1159, § 1; 1995, No. 1276, §§ 1-3; 1997, No. 1039, § 1; 1999, No. 1126, § 13; 1999, No. 1277, § 9; 1999, No. 1598, § 1; 2001, No. 565, § 1; 2001, No. 1368, § 1; 2003, No. 860, § 10; 2005, No. 1294, § 1; 2007, No. 437, § 1; 2007, No. 827, § 196; 2007, No. 865, § 1; 2009, No. 272, § 1; 2009, No. 360, § 2; 2009, No. 504, § 2; 2009, No. 655, § 1; 2011, No. 788, § 2; 2011, No. 836, § 1; 2011, No. 983, § 1; 2013, No. 712, § 1; 2013, No. 1143, § 2; 2017, No. 426, § 15; 2017, No. 435, § 1; 2019, No. 315, §§ 2939, 2940; 2019, No. 819, § 15; 2019, No. 866, § 3; 2019, No. 910, §§ 2393, 3612-3625; 2021, No. 523, § 14; 2021, No. 732, §§ 1-5; 2021, No. 776,

§ 1; 2021, No. 780, § 6; 2021, No. 876, §§ 1, 2; 2021, No. 1041, §§ 31, 32; 2021, No. 1059, § 1.

A.C.R.C. Notes. Acts 2021, No. 523, § 1, provided: “Legislative findings and intent.

“(a) The General Assembly finds that:

“(1) Acts 2019, No. 819 will transfer responsibility for franchise tax collection and administration from the Secretary of State to the Department of Finance and Administration on May 1, 2021;

“(2) In an effort to achieve a more seamless transition, the department began collecting and administering the franchise tax on January 1, 2021, under a Memorandum of Understanding with the Secretary of State;

“(3) The transfer of franchise tax collection and administration has negatively impacted Arkansas taxpayers as they seek to comply with their franchise tax obligations; and

“(4) Unless franchise tax collection and administration responsibilities are immediately transferred from department back to the Secretary of State, Arkansas taxpayers will face significant difficulties as they seek to comply with Arkansas franchise tax laws.

“(b) It is the intent of the General Assembly:

“(1) To reverse the effects of certain provisions in Acts 2019, No. 819 by transferring the administration and collection of the franchise tax from the department back to the Secretary of State;

“(2) That the Secretary of State should continue to administer the collection of franchise tax; and

“(3) To accomplish this transfer in a manner that results in minimal impact to Arkansas taxpayers.”

Publisher's Notes. Acts 2021, No. 523, § 14, effective April 1, 2021, specifically amended this section as amended by Acts 2019, No. 819, § 15, and effective on and after May 1, 2021.

For text of section effective until January 1, 2022, see the preceding version. For text of section effective January 1, 2023, see the following version.

Amendments. The 2021 amendment by No. 523 rewrote (b)(14)(A)(vi); and deleted (b)(14)(B)(ii) and removed the designation for (b)(14)(B)(i).

The 2021 amendment by No. 732 deleted “when the Secretary of the Department of Finance and Administration initiates the investigation” following “state tax law” in (b)(3)(A); deleted (b)(3)(B); redesignated former (b)(3)(C) as (b)(3)(B); inserted “disclosed under subdivision (b)(3)(A) of this section” in (b)(3)(B); rewrote and redesignated former (b)(4) as (b)(4)(A); added (b)(4)(B); rewrote (b)(8); redesignated part of (b)(20)(A) as (b)(20)(A)(i); added (b)(20)(A)(ii); and added (b)(26).

The 2021 amendment by No. 776 added (k).

The 2021 amendment by No. 780 added (b)(27).

The 2021 amendment by No. 876 added “Except as otherwise provided in this section” in (a)(2)(A)(ii); and added (l).

The 2021 amendment by No. 1041 substituted “Uniform Limited Liability Company Act, § 4-38-101 et seq.” for “Small Business Entity Tax Pass Through Act, § 4-32-101 et seq.” in (b)(14)(B).

The 2021 amendment by No. 1059 added (b)(28).

Effective Dates. Acts 2021, No. 776, § 2: Jan. 1, 2022.

Acts 2021, No. 876, § 3: Jan. 1, 2022.

Acts 2021, No. 1059, § 2: Jan. 1, 2022.

26-18-303. Records confidential and privileged — Exceptions. **[Effective January 1, 2023.]**

(a)(1) The Secretary of the Department of Finance and Administration is the official custodian of all records and files required by any state tax law to be filed with the Secretary of the Department of Finance and Administration and is required to take all steps necessary to maintain their confidentiality.

(2)(A)(i) Except as otherwise provided by this chapter, the records and files of the Secretary of the Department of Finance and Administration concerning the administration of any state tax law are confidential and privileged.

(ii) Except as otherwise provided in this section, these records and files and any information obtained from these records or files or from any examination or inspection of the premises or property of any taxpayer shall not be divulged or disclosed by the Secretary of the Department of Finance and Administration or any other person who may have obtained these records and files.

(B) It is the specific intent of this chapter that all tax returns, audit reports, and information pertaining to any tax returns, whether filed by individuals, corporations, partnerships, or fiduciaries, shall

not be subject to the provisions of the Freedom of Information Act of 1967, § 25-19-101 et seq.

(b) The provisions against disclosures shall not apply to the following:

(1) Publication of statistics by the Secretary of the Department of Finance and Administration classified to prevent the identification of a particular taxpayer;

(2) Use of the information in records filed under any state tax law by the Secretary of the Department of Finance and Administration when conducting any audit or investigation of any taxpayer in regard to any state tax;

(3)(A) Disclosure of information to the Attorney General of this state, any prosecuting attorney, or any other individual who is empowered by law to prosecute criminal and civil violations of any state tax law.

(B) Information disclosed under subdivision (b)(3)(A) of this section may be introduced as evidence by the Attorney General, a prosecuting attorney, or other individual so empowered when the individual is prosecuting any civil or criminal violation of state tax law;

(4)(A) Disclosure of information compelled by a judge in an Arkansas circuit court, the Supreme Court, or the Court of Appeals, or by any federal court.

(B) Disclosure of information under subdivision (b)(4)(A) of this section is limited to the disclosure of information in a case or controversy before the judge compelling the disclosure of the information;

(5) Disclosure by the taxpayer or the taxpayer's authorized agent or by the Secretary of the Department of Finance and Administration, at the taxpayer's request, of any information which the Secretary of the Department of Finance and Administration has concerning that taxpayer;

(6) Disclosure by the Secretary of the Department of Finance and Administration, at the Secretary of the Department of Finance and Administration's discretion, of information from the records of any state tax law to comparable officials of any other state or the United States who are charged with the administration of a similar tax;

(7) Disclosure of motor vehicle titling and registration information, all licenses and permits issued to owners and operators of coin-operated amusement machines pursuant to §§ 26-57-402, 26-57-408 — 26-57-421, and 26-77-303, and tax records, files, and other information relating to sales of aviation fuel at airports and other aviation fuel outlets;

(8) Disclosure of information at an administrative hearing held under the Arkansas Tax Procedure Act, § 26-18-101 et seq., under the Independent Tax Appeals Commission Act, § 26-18-1101 et seq., and in any judicial proceeding in which the Secretary of the Department of Finance and Administration is a party;

(9)(A) Disclosure to the Student Loan Authority Division of the Arkansas Development Finance Authority, the Division of Higher

Education, the Student Loan Guarantee Foundation of Arkansas, or any Arkansas public institution of higher education of the last known address or whereabouts or the last known employer of any person from whom these agencies are charged with collecting a student loan or other student indebtedness.

(B) In providing such information, the Secretary of the Department of Finance and Administration shall not allow the Student Loan Authority Division of the Arkansas Development Finance Authority, the Student Loan Guarantee Foundation of Arkansas, the Division of Higher Education, or any Arkansas public institution of higher education to examine the tax return;

(10)(A) In order to ensure proper payment to vendors by all agencies of state government or by county governments or city governments, information about the receipt or nonreceipt of sales tax permits by vendors must be made available by the Secretary of the Department of Finance and Administration upon request by these agencies of state government or by county governments or city governments.

(B) Therefore, notwithstanding any provision of this chapter or any other law to the contrary, in instances when state agencies, boards, commissions, and other branches of state government or county governments or city governments identify to the Secretary of the Department of Finance and Administration the identity of vendors receiving payments and ask the Secretary of the Department of Finance and Administration whether these vendors have been issued sales tax permits, the Secretary of the Department of Finance and Administration shall answer these inquiries;

(11) Disclosure of the name of any taxpayer and the amount of any tax credit, tax rebate, tax discount, or commission for the collection of a tax received by such taxpayer from the following tax incentive provisions:

(A) Discount for prompt payment, § 26-52-503;

(B) Economic Investment Tax Credit Act, § 26-52-701 et seq. [repealed];

(C) Steel mill tax incentives, §§ 26-52-901 — 26-52-903 and 26-52-912 — 26-52-914;

(D) Motor fuel shrinkage allowance, § 26-55-230(a)(1)(F);

(E) Commission for sale of stamps for cigarettes and the collection of cigarette taxes, § 26-57-236(f);

(F) Credit on severance tax of oil producer, § 26-58-204;

(G) Credit on severance tax of gas producer, § 26-58-205;

(H) Refund of motor fuel tax by municipal buses, § 26-55-401 et seq.;

(I) Refund of distillate special fuel tax to interstate users, §§ 26-56-214 and 26-56-215;

(J) Credit against severance tax for the discovery of a commercial oil pool, § 15-72-706;

(K) Native wines — subsidies, § 3-5-1001 et seq.;

(L) Native wines — incentive grants, § 3-5-901 et seq.;

(M) Consolidated Incentive Act of 2003, § 15-4-2701 et seq.; and

(N)(i) Any other tax incentive program enacted after January 1, 1991, that provides a tax credit, tax rebate, tax discount, or commission for the collection of a tax, with the exception of any benefits under the income tax laws of this state.

(ii) However, information that is subject to disclosure under the provisions of this subdivision (b)(11) shall not be disclosed if such information would give an advantage to competitors or bidders or if such information is exempt from disclosure under any other provision of law that exempts specified information from disclosure under any such law;

(12) Disclosure of the lists required by:

(A) Section 3-2-205(e)(4), reporting to the Alcoholic Beverage Control Division and the Alcoholic Beverage Control Board those taxpayers who hold a permit to sell alcoholic beverages and who are delinquent in state taxes; and

(B) Section 26-57-257(o)(2), reporting to the Arkansas Tobacco Control Board those taxpayers who hold a permit to sell tobacco products and cigarettes and who are delinquent in state taxes;

(13) Disclosure to the Tax Division of the Arkansas Public Service Commission of information contained in motor fuel tax records necessary to assess motor carrier companies for ad valorem taxation;

(14)(A) Disclosure of the following information concerning corporate franchise tax:

(i) The name and address of a corporation;

(ii) The name of a corporation's president, vice president, secretary, treasurer, and controller;

(iii) The total authorized capital stock with par value;

(iv) The total issued and outstanding capital stock with par value;

(v) The state of incorporation; and

(vi) Information necessary to identify corporations that paid franchise tax to the Secretary of the Department of Finance and Administration in lieu of payment to the Secretary of State for franchise tax reporting year 2021 under Acts 2019, No. 819.

(B) In the case of a franchise tax report filed by an organization formed under the Uniform Limited Liability Company Act, § 4-38-101 et seq., the confidentiality provision of subsection (a) of this section shall apply to the names of members of the organization, except those designated in the organization's franchise tax report as a manager, president, vice president, secretary, treasurer, or controller of the organization, unless the organization has no registered agent for service of process, in which case the confidentiality provisions of subsection (a) of this section shall not apply;

(15) Disclosure compelled by a subpoena issued by a state or federal prosecutor or grand jury or other state or federal entity with subpoena power;

(16)(A) Disclosure to county assessors of information that may affect personal property tax assessments, including information obtained

during the course of audits or investigations concerning motor vehicles, boats, trailers, airplanes, or other items of personal property that may be subject to assessment in that county.

(B) This information may be released only following completion of an audit or investigation by the Secretary of the Department of Finance and Administration and following a determination by the Secretary of the Department of Finance and Administration that there is a strong possibility the taxpayer has failed to properly assess the taxpayer's personal property in the county.

(C) In providing this information, the Secretary of the Department of Finance and Administration shall not allow the county assessors to examine any tax returns or audit records;

(17)(A) For the purpose of the timely and accurate collection of local sales and use tax and state income tax withholding for employees, disclosure of the name and address of a taxpayer that has failed three (3) times within any consecutive twenty-four-month period to either report or remit state or local gross receipts or compensating use tax or state income tax withholding for employees and has been served with a business closure order under § 26-18-1001 et seq.

(B) Disclosure shall be made by posting weekly on the website maintained by the Department of Finance and Administration the business name, business address, and city and county in which the business is located as it appears on the sales tax permit or the state income tax withholding for employees registration of each taxpayer identified in subdivision (b)(17)(A) of this section.

(C) The information posted on the website for a taxpayer shall remain on the website until that taxpayer is no longer subject to the business closure provisions of § 26-18-1001 et seq.;

(18)(A) Disclosure to the Arkansas Economic Development Commission of any information requested regarding a tax incentive program that provides a tax credit, tax rebate, tax discount, or other economic incentive that is jointly administered by the Arkansas Economic Development Commission and the Department of Finance and Administration.

(B) Any information received by the Arkansas Economic Development Commission under this section shall remain confidential and is not subject to disclosure except in accordance with this section;

(19) Disclosure of information to a bankruptcy trustee or to an employee of a bankruptcy trustee;

(20)(A) To perform audit and compliance duties, disclosure to the Division of Workforce Services of:

(i) Withholding tax information reported by companies doing business in Arkansas, including without limitation taxpayer names, taxpayer addresses, tax identification numbers, and tax withholding information; or

(ii) Information for the purpose of providing pandemic unemployment assistance to a worker who:

(a) Is self-employed;

- (b) Is seeking part-time employment;
- (c) Does not have sufficient work history; or
- (d) Is otherwise unable to qualify for regular unemployment or extended benefits under state or federal law.

(B) Information received by the Division of Workforce Services under this section shall remain confidential and is not subject to disclosure except in accordance with this section;

(21) Disclosure of information, including disclosure as required under § 26-55-232, regarding delinquent motor fuel excise tax levied by the Motor Fuel Tax Law, § 26-55-201 et seq., and by § 26-56-601 et seq., to a bonding company that provides the surety bond required by § 26-55-222 for the taxpayer that owes the delinquent tax;

(22) Disclosure of information regarding delinquent distillate special fuel tax levied by § 26-56-201 et seq., and by § 26-56-601 et seq., to a bonding company that provides the surety bond required by § 26-56-204 for the taxpayer that owes the delinquent tax;

(23) Disclosure of information regarding delinquent liquefied gas special fuel tax levied by § 26-56-301 et seq. and by § 26-56-601 et seq. to a bonding company that provides the surety bond required by § 26-56-303 for the taxpayer that owes the delinquent tax;

(24)(A) Disclosure of information in the books of the Department of Finance and Administration concerning a taxpayer by the Department of Finance and Administration to a joint auditor employed under the authority of § 26-75-619 when the joint auditor requests the information.

(B) Information received by the joint auditor under subdivision (b)(24)(A) of this section shall remain confidential and is not subject to disclosure except in accordance with this section;

(25) Disclosure of information related to a business closure order under § 26-18-1001 et seq. to the Office of State Procurement for the purpose of carrying out §§ 19-11-281 and 19-11-1015;

(26) Disclosure of information for the purpose of tax collection in state and federal insolvency, reorganization, corporate dissolution, and other similar proceedings in which the Secretary of the Department of Finance and Administration is an interested party;

(27) Disclosure to the Department of Human Services as required by § 20-76-215(c) or § 20-77-2104(c) to determine whether a change in circumstances has occurred that would affect the eligibility of an applicant for benefits under the Supplemental Nutrition Assistance Program or the Arkansas Medicaid Program;

(28)(A) For the purpose of providing information to municipalities and counties, disclosure to a city or county of a monthly electronic report showing the city's or county's gross receipts and compensating or use tax revenues generated within the boundaries of the city or county.

(B) The electronic report shall list:

(i) The total number of holders of a gross receipts tax permit that remitted gross receipts or compensating use tax in the city or county;

- (ii) The amount of tax revenue generated by reference to the North American Industry Classification System four-digit code; and
- (iii) The total number of holders of a gross receipts tax permit for each four-digit code number.

(C) A request made by a city or county for the report under subdivision (b)(28)(A) of this section:

- (i) May be made at any time; and
- (ii) Shall be submitted electronically by an official of the city or county.

(D) In order to receive a report under subdivision (b)(28)(A) of this section, the city or county making the request shall register for an account with the Arkansas Taxpayer Access Point or its successor.

(E) The Department of Finance and Administration shall not discuss any details of the information within an electronic report provided under this subdivision (b)(28) with a representative of the city or county or with a third party.

(F) Upon receiving a political subdivision's request for the information referenced in subdivision (b)(28)(A) of this section, the Secretary of the Department of Finance and Administration shall make the information for the current period available as soon as practicable but no later than thirty (30) days after receiving the request.

(G) Information a political subdivision receives from the Secretary of the Department of Finance and Administration in response to a request under this subdivision (b)(28) shall remain confidential and shall be exempt from the Freedom of Information Act of 1967, § 25-19-101 et seq.; and

(29)(A) Disclosure of information related to a petition filed with the Tax Appeals Commission under the Independent Tax Appeals Commission Act, § 26-18-1101 et seq.

(B) Information received by the Tax Appeals Commission under subdivision (b)(29)(A) of this section is confidential and is not subject to disclosure except in accordance with this section.

(c) The provisions of this section shall be strictly interpreted and shall not permit any other disclosure of tax information concerning a taxpayer, whether the taxpayer is an individual, a corporation, a partnership, or a fiduciary, that is contained in the records and files of the Secretary of the Department of Finance and Administration relating to income tax or any other state tax administered under this chapter.

(d)(1) Any person who knowingly discloses information in violation of a provision of this section shall be guilty of a Class A misdemeanor.

(2) An employee of the state who is convicted of violating a provision of this section shall be discharged from employment in addition to any fine or imprisonment.

(e) Any person who knowingly obtains or attempts to obtain any of the confidential and privileged records and files of the Secretary of the Department of Finance and Administration who is not so permitted by law is guilty of a Class A misdemeanor.

(f) The Secretary of the Department of Finance and Administration shall report all violations of this section to the appropriate prosecuting attorney in this state.

(g)(1) The Secretary of the Department of Finance and Administration shall promulgate such rules as are necessary to establish a reasonable procedure for making requests for and release of information under subdivision (b)(11) of this section, for allowing a taxpayer reasonable notice in advance of the release of the requested information, for a period of time up to seven (7) days from the date a request for information is made to provide notice and make necessary determinations, and to provide the methods by which the Secretary of the Department of Finance and Administration shall determine if the information requested is subject to disclosure under Arkansas law.

(2) The provisions of this section shall solely govern the release of information under subdivision (b)(11) of this section, and the release of information shall not be subject to the Freedom of Information Act of 1967, § 25-19-101 et seq.

(h)(1) Upon the request of a county government or a city government, the Secretary of the Department of Finance and Administration shall provide a list of vendors within the requesting county or city who hold permits issued pursuant to the Arkansas Gross Receipts Act of 1941, § 26-52-101 et seq.

(2) Requests made pursuant to this subsection must be made in writing by an official of the county government or city government prior to August 1 of the calendar year for which the list is requested.

(3) Lists provided pursuant to the provisions of this subsection will be made available following October 1 of the year requested and will be compiled from the list of all valid sales tax permit holders within the requesting county or city as of September 1 of the year requested.

(4)(A) A reasonable fee based upon the number of permit holders within the requesting city or county may be charged for the permit search made and reported to the requesting county or city government.

(B) Fees collected under the provisions of this subsection shall be deposited into the State Central Services Fund to be treated as a refund of expenditures to reimburse the Department of Finance and Administration for the costs of providing the requested information.

(i)(1) The Secretary of the Department of Finance and Administration may disclose information from a return filed by a person, partnership, corporation, trust, or estate to any of the parties who signed the return:

(A) Who is the administrator, executor, or trustee of the estate filing the return;

(B) Who was a member of the partnership filing the return during any part of the period covered by the return;

(C) Who is a trustee or beneficiary of the trust filing the return;

(D) Who is an officer or bona fide shareholder of record owning one percent (1%) or more of the outstanding stock of the corporation filing the return;

(E) Who was a shareholder during any part of the period covered by the return filed by a Subchapter S corporation;

(F) Who was a member of the partnership during any part of the period covered by the partnership return; or

(G) Who is the attorney in fact duly authorized in writing by any of the persons described in subdivisions (i)(1)(A)-(F) of this section.

(2) The Secretary of the Department of Finance and Administration may also disclose all information concerning the collection activity related to a tax return to any party who signed the return.

(3) The Secretary of the Department of Finance and Administration shall promulgate such rules as are necessary to establish a reasonable procedure for making requests for and for the release of information under this section.

(j)(1) The General Assembly finds that:

(A) The collection of cigarette and other tobacco products taxes and the enforcement of the Arkansas Tobacco Products Tax Act of 1977, § 26-57-201 et seq., §§ 26-57-260 and 26-57-261, and §§ 26-57-1301 — 26-57-1307, affect the fiscal soundness of the state and the public health;

(B) The Attorney General and the Director of Arkansas Tobacco Control play an important role in the enforcement of the state's tobacco laws; and

(C) The sharing of documents and other information between the Secretary of the Department of Finance and Administration, the Attorney General, and the director will put the state in a better position to prevent tobacco diversion and prevent cigarettes from being sold to youth and an already addicted adult population.

(2) The Secretary of the Department of Finance and Administration may disclose documents and other information submitted by stamp deputies appointed under § 26-57-236 or those persons licensed or permitted under the terms of the Arkansas Tobacco Products Tax Act of 1977, § 26-57-201 et seq., to the Attorney General or the director upon the request of the Attorney General or the director.

(3)(A) The documents and other information provided under this subsection shall not be disclosed by the Attorney General or the director to a person other than a person specifically authorized by the Attorney General or the director to receive the documents or other information.

(B) However, the Attorney General and the director may share the documents and other information provided under this subsection with the taxing authorities or law enforcement agencies of Arkansas or another state or with any other entity permitted by the Attorney General to aggregate the documents and other information, if the parties agree to the confidentiality requirements under this subsection.

(4)(A) The Attorney General and the director may use the documents and other information provided under this subsection by the Secretary of the Department of Finance and Administration in proceedings before any court.

(B)(i) However, the documents and other information shall not be presented in court except with the approval of the court in which the action is pending and after adequate notice to the person who initially furnished the documents or other information to the Secretary of the Department of Finance and Administration.

(ii) When confidential information is presented with court approval, the documents and other information and the related evidence shall be held in camera and shall be part of the court record or trial transcript only if under seal.

(k)(1) The Department of Finance and Administration shall prepare and deliver a report of the awarded amounts of credit or rebate of sales and use tax under §§ 26-52-427, 26-52-523, and 26-53-138 to each city government and county government impacted by the award of the credit or rebate of sales and use tax.

(2) The report required under subdivision (k)(1) of this section shall be delivered electronically on a monthly basis and shall include the name of the taxpayer and the amount of the credit or rebate awarded.

(3) In order to receive the report, a city government or county government shall register for an account with the Arkansas Taxpayer Access Point or its successor.

(4) The Department of Finance and Administration shall not discuss any details of individual claims within a report provided under this subsection with the city government, the county government, or a third party.

(5) Information received by a city government or county government under this subsection shall remain confidential and is not subject to disclosure except in accordance with this section.

(1)(1) The General Assembly finds that:

(A) The ability of the Bureau of Legislative Research to assist the General Assembly in state budgeting and forecasting matters is important to the performance of the General Assembly's duties and the fiscal soundness of the state;

(B) The General Assembly plays an essential role in determining the fiscal needs of the state, and the Bureau of Legislative Research provides important assistance to the General Assembly in its performance of that role;

(C) To ensure the Bureau of Legislative Research can provide accurate and complete information and analysis to the General Assembly in order to assist the General Assembly in its duty to set state appropriation amounts, it is essential that the Bureau of Legislative Research have direct access to the nonconfidential aggregate and statistical information that would inform state budgeting and forecasting; and

(D) The sharing of information between the Secretary of the Department of Finance and Administration and the Bureau of Legislative Research will enable the General Assembly to better serve the fiscal needs of the state.

(2)(A) The Secretary of the Department of Finance and Administration shall provide the Bureau of Legislative Research with direct

access to nonconfidential aggregate and statistical information derived from state tax collection and administration records for use in state budgeting and forecasting and the preparation of fiscal impact statements on proposed legislation.

(B) The information disclosed under subdivision (1)(2)(A) of this section shall not contain:

(i) Personally identifiable or confidential taxpayer information, including without limitation a taxpayer's:

- (a) Name;
- (b) Address;
- (c) Date of birth;
- (d) Taxpayer identification number;
- (e) Social Security number;
- (f) Driver's license number;
- (g) Vehicle identification number;
- (h) License plate number;
- (i) Telephone number;
- (j) Email address; or
- (k) Financial institution information;

(ii) Tax return, audit report, or information or documents pertaining to a tax return or audit report;

(iii) Federal tax information, including without limitation:

(a) A return as defined under 26 U.S.C. § 6103(b)(1), as it existed on January 1, 2021;

(b) Return information as defined under 26 U.S.C. § 6103(b)(2), as it existed on January 1, 2021; and

(c) Taxpayer return information as defined under 26 U.S.C. § 6103(b)(3), as it existed on January 1, 2021; or

(iv) Any information or document determined to be confidential by the Secretary of the Department of Finance and Administration under state or federal law.

(3)(A) The documents and other information that the Bureau of Legislative Research has access to under this subsection shall not be disclosed by the Bureau of Legislative Research to a person other than a person specifically authorized by law to receive the documents or other information.

(B) The Bureau of Legislative Research may:

(i) Disclose information in the same manner as provided in subdivisions (b)(1), (b)(11), and (b)(14) of this section;

(ii)(a) Provide access to the documents and other information to which the Bureau of Legislative Research has access under this section to any consultant retained by the Bureau of Legislative Research.

(b) Any information obtained by a consultant retained by the Bureau of Legislative Research under this section shall be kept confidential and shall not be disclosed by the consultant; and

(iii) Provide analysis of the documents and information to which it has access under this section to the General Assembly and any consultants retained by the Bureau of Legislative Research.

History. Acts 1979, No. 401, § 6; 1981, No. 854, § 1; 1983, No. 673, § 2; 1983, No. 694, §§ 1, 2; 1985, No. 694, § 1; A.S.A. 1947, §§ 84-4706 — 84-4706.2; Acts 1987, No. 382, §§ 29, 30; 1991, No. 400, §§ 1, 2; 1993, No. 403, § 21; 1993, No. 1018, § 2; 1993, No. 1159, § 1; 1995, No. 1276, §§ 1-3; 1997, No. 1039, § 1; 1999, No. 1126, § 13; 1999, No. 1277, § 9; 1999, No. 1598, § 1; 2001, No. 565, § 1; 2001, No. 1368, § 1; 2003, No. 860, § 10; 2005, No. 1294, § 1; 2007, No. 437, § 1; 2007, No. 827, § 196; 2007, No. 865, § 1; 2009, No. 272, § 1; 2009, No. 360, § 2; 2009, No. 504, § 2; 2009, No. 655, § 1; 2011, No. 788, § 2; 2011, No. 836, § 1; 2011, No. 983, § 1; 2013, No. 712, § 1; 2013, No. 1143, § 2; 2017, No. 426, § 15; 2017, No. 435, § 1; 2019, No. 315, §§ 2939, 2940; 2019, No. 819, § 15; 2019, No. 866, § 3; 2019, No. 910, §§ 2393, 3612-3625; 2021, No. 523, § 14; 2021, No. 593, §§ 4, 5; 2021, No. 732, §§ 1-5; 2021, No. 776, § 1; 2021, No. 780, § 6; 2021, No. 876, §§ 1, 2; 2021, No. 1041, §§ 31, 32; 2021, No. 1059, § 1.

A.C.R.C. Notes. Acts 2021, No. 523, § 1, provided: “Legislative findings and intent.

“(a) The General Assembly finds that:

“(1) Acts 2019, No. 819 will transfer responsibility for franchise tax collection and administration from the Secretary of State to the Department of Finance and Administration on May 1, 2021;

“(2) In an effort to achieve a more seamless transition, the department began collecting and administering the franchise tax on January 1, 2021, under a Memorandum of Understanding with the Secretary of State;

“(3) The transfer of franchise tax collection and administration has negatively impacted Arkansas taxpayers as they seek to comply with their franchise tax obligations; and

“(4) Unless franchise tax collection and administration responsibilities are immediately transferred from department back to the Secretary of State, Arkansas taxpayers will face significant difficulties as they seek to comply with Arkansas franchise tax laws.

“(b) It is the intent of the General Assembly:

“(1) To reverse the effects of certain provisions in Acts 2019, No. 819 by transferring the administration and collection

of the franchise tax from the department back to the Secretary of State;

“(2) That the Secretary of State should continue to administer the collection of franchise tax; and

“(3) To accomplish this transfer in a manner that results in minimal impact to Arkansas taxpayers.”

Under Acts 2021, No. 593, § 42, the effectiveness of Acts 2021, No. 593, was contingent on the enactment of House Bill 1468 during the Ninety-Third Regular Session. House Bill 1468 was enacted during the Ninety-Third Regular Session and became Acts 2021, No. 586, on April 6, 2021.

Publisher's Notes. Acts 2021, No. 523, § 14, effective April 1, 2021, specifically amended this section as amended by Acts 2019, No. 819, § 15, and effective on and after May 1, 2021.

For text of section effective January 1, 2022, and until January 1, 2023, see the preceding version.

Amendments. The 2021 amendment by No. 523 rewrote (b)(14)(A)(vi); and deleted (b)(14)(B)(ii) and removed the designation for (b)(14)(B)(i).

The 2021 amendment by No. 593 rewrote (b)(8); and added (b)(29).

The 2021 amendment by No. 732 deleted “when the Secretary of the Department of Finance and Administration initiates the investigation” following “state tax law” in (b)(3)(A); deleted (b)(3)(B); redesignated former (b)(3)(C) as (b)(3)(B); inserted “disclosed under subdivision (b)(3)(A) of this section” in (b)(3)(B); rewrote and redesignated former (b)(4) as (b)(4)(A); added (b)(4)(B); rewrote (b)(8); redesignated part of (b)(20)(A) as (b)(20)(A)(i); added (b)(20)(A)(ii); and added (b)(26).

The 2021 amendment by No. 776 added (k).

The 2021 amendment by No. 780 added (b)(27).

The 2021 amendment by No. 876 added “Except as otherwise provided in this section” in (a)(2)(A)(ii); and added (l).

The 2021 amendment by No. 1041 substituted “Uniform Limited Liability Company Act, § 4-38-101 et seq.” for “Small Business Entity Tax Pass Through Act, § 4-32-101 et seq.” in (b)(14)(B).

The 2021 amendment by No. 1059 added (b)(28).

Effective Dates. Acts 2021, No. 593, § 41: Jan. 1, 2023.

Acts 2021, No. 593, § 42, provided: “Legislative intent — Contingent effectiveness.

“(a) The General Assembly intends for this act to be effective only if the Arkansas Code is amended to expressly authorize, implement, and enable the hearing and determination of tax appeals by the Tax Appeals Commission under the Arkansas Tax Procedure Act, § 26-18-101 et seq., the Independent Tax Appeals Commission Act, § 26-18-1101 et seq., and any other

relevant laws.

“(b)(1) This act shall not become effective unless HB1468 of 2021 is enacted during the Ninety-Third Regular Session of the General Assembly.

“(2) If HB1468 of 2021 is not enacted during the Ninety-Third Regular Session of the General Assembly, this act expires retroactively upon the sine die adjournment of the Ninety-Third Regular Session of the General Assembly.”

Acts 2021, No. 776, § 2: Jan. 1, 2022.

Acts 2021, No. 876, § 3: Jan. 1, 2022.

Acts 2021, No. 1059, § 2: Jan. 1, 2022.

26-18-307. Notice requirements. [Effective January 1, 2023.]

(a)(1) Except as otherwise provided in this section, the Secretary of the Department of Finance and Administration shall give a taxpayer notice of any assessment, demand, decision, or hearing before the secretary that directly involves that taxpayer.

(2)(A) All notices required to be given by the secretary to a taxpayer shall be either served by personal service or sent by regular mail to the taxpayer’s last address on record with the particular tax section of the Revenue Division of the Department of Finance and Administration in question.

(B) Service of the notice by mail is presumptively complete upon mailing, and the secretary may take any action permitted by any state tax law.

(3) All notices of final assessment under § 26-18-401 shall be sent by regular mail.

(b)(1) When giving notice to the secretary, the taxpayer shall give notice either by mail or by personal service on the secretary.

(2) The notice the taxpayer gives shall be effective when postmarked or, in case of personal service, when so served.

(c) By written agreement, the secretary and any taxpayer may provide for any other reasonable means of giving notice.

(d) All notices shall be in writing.

(e) For a petition filed with the Tax Appeals Commission, the notice of hearing and the administrative decision required under this section shall be issued by the commission under the Independent Tax Appeals Commission Act, § 26-18-1101 et seq.

History. Acts 1979, No. 401, § 33; A.S.A. 1947, § 84-4733; Acts 2003, No. 214, § 1; 2021, No. 593, § 6.

A.C.R.C. Notes. Under Acts 2021, No. 593, § 42, the effectiveness of Acts 2021, No. 593, was contingent on the enactment of House Bill 1468 during the Ninety-Third Regular Session. House Bill 1468 was enacted during the Ninety-Third Regular Session and became Acts 2021,

No. 586, on April 6, 2021.

Publisher’s Notes. For text of section effective until January 1, 2023, see the bound volume.

Amendments. The 2021 amendment added “Except as otherwise provided in this section” in (a)(1); added (e); and made a stylistic change.

Effective Dates. Acts 2021, No. 593, § 41: Jan. 1, 2023.

Acts 2021, No. 593, § 42, provided: “Legislative intent — Contingent effectiveness.

“(a) The General Assembly intends for this act to be effective only if the Arkansas Code is amended to expressly authorize, implement, and enable the hearing and determination of tax appeals by the Tax Appeals Commission under the Arkansas Tax Procedure Act, § 26-18-101 et seq., the Independent Tax Appeals Commission Act, § 26-18-1101 et seq., and any other

relevant laws.

“(b)(1) This act shall not become effective unless HB1468 of 2021 is enacted during the Ninety-Third Regular Session of the General Assembly.

“(2) If HB1468 of 2021 is not enacted during the Ninety-Third Regular Session of the General Assembly, this act expires retroactively upon the sine die adjournment of the Ninety-Third Regular Session of the General Assembly.”

26-18-314. Transparency. [Effective January 1, 2023.]

(a)(1) A written legal opinion issued by the Secretary of the Department of Finance and Administration on or after January 1, 2016, shall be posted on the Arkansas.gov website.

(2) Any identifying facts and information that the secretary determines to be confidential in nature concerning taxpayers or other individuals or entities shall be redacted from an opinion posted under this section.

(3) The secretary may post a synopsis that describes the subject matter, facts, and guidance provided in an opinion instead of posting the complete redacted opinion if a copy of the redacted opinion is made available upon request.

(b)(1) A final determination of a hearing officer or the secretary issued under § 26-18-405 on or after January 1, 2016, shall be posted on the Arkansas.gov website.

(2) Any identifying facts and information that the secretary determines to be confidential in nature concerning taxpayers or other individuals or entities shall be redacted from a final determination posted under this section.

(3) The secretary may post a synopsis that fully describes the subject matter, facts, and conclusions reached by the hearing officer or secretary instead of posting the complete determination.

(4) An administrative appeal that is settled or withdrawn from consideration before a final determination is made shall not be posted under this section.

(c)(1) A final decision of the Tax Appeals Commission under the Independent Tax Appeals Commission Act, § 26-18-1101 et seq., shall be posted on the Arkansas.gov website.

(2) Any identifying facts and information that the commission determines to be confidential in nature concerning taxpayers or other individuals or entities shall be redacted from a final decision posted under this section.

(3) The commission may post a synopsis that fully describes the subject matter, facts, and conclusions reached by the commission instead of posting the complete decision.

(4) An administrative appeal that is settled or withdrawn from consideration before a final decision is made by the commission shall not be posted under this section.

History. Acts 2015, No. 896, § 4; 2021, No. 593, § 7.

A.C.R.C. Notes. Under Acts 2021, No. 593, § 42, the effectiveness of Acts 2021, No. 593, was contingent on the enactment of House Bill 1468 during the Ninety-Third Regular Session. House Bill 1468 was enacted during the Ninety-Third Regular Session and became Acts 2021, No. 586, on April 6, 2021.

Publisher's Notes. For text of section effective until January 1, 2023, see the bound volume.

Amendments. The 2021 amendment added (c).

Effective Dates. Acts 2021, No. 593, § 41: Jan. 1, 2023.

Acts 2021, No. 593, § 42, provided: "Legislative intent — Contingent effectiveness.

"(a) The General Assembly intends for this act to be effective only if the Arkansas Code is amended to expressly authorize, implement, and enable the hearing and determination of tax appeals by the Tax Appeals Commission under the Arkansas Tax Procedure Act, § 26-18-101 et seq., the Independent Tax Appeals Commission Act, § 26-18-1101 et seq., and any other relevant laws.

"(b)(1) This act shall not become effective unless HB1468 of 2021 is enacted during the Ninety-Third Regular Session of the General Assembly.

"(2) If HB1468 of 2021 is not enacted during the Ninety-Third Regular Session of the General Assembly, this act expires retroactively upon the sine die adjournment of the Ninety-Third Regular Session of the General Assembly."

SUBCHAPTER 4 — ASSESSMENTS

SECTION.

26-18-401. Assessment and collection of taxes generally. [Effective January 1, 2023.]

26-18-402. Jeopardy assessment. [Effective January 1, 2023.]

26-18-403. Proposed assessments. [Effective January 1, 2023.]

SECTION.

26-18-404. Taxpayer relief. [Effective January 1, 2023.]

26-18-405. Hearing on proposed assessments. [Effective January 1, 2023.]

26-18-406. Judicial relief. [Effective January 1, 2023.]

Effective Dates. Acts 2021, No. 593 § 41: Jan. 1, 2023.

Acts 2021, No. 593, § 42, provided: "Legislative intent — Contingent effectiveness.

"(a) The General Assembly intends for this act to be effective only if the Arkansas Code is amended to expressly authorize, implement, and enable the hearing and determination of tax appeals by the Tax Appeals Commission under the Arkansas Tax Procedure Act, § 26-18-101 et seq., the Independent Tax Appeals Commission Act, § 26-18-1101 et seq., and any other

relevant laws.

"(b)(1) This act shall not become effective unless HB1468 of 2021 is enacted during the Ninety-Third Regular Session of the General Assembly.

"(2) If HB1468 of 2021 is not enacted during the Ninety-Third Regular Session of the General Assembly, this act expires retroactively upon the sine die adjournment of the Ninety-Third Regular Session of the General Assembly." House Bill 1468 was enacted during the Ninety-Third Regular Session and became Acts 2021, No. 586, on April 6, 2021.

26-18-401. Assessment and collection of taxes generally. [Effective January 1, 2023.]

(a)(1) The Secretary of the Department of Finance and Administration shall make the inquiries, determinations, and assessments of all state taxes, including interest, additions to taxes, and assessable penalties, imposed by all state tax laws.

(2) The proposed assessment shall be made by recording the liability of the taxpayer in the office of the secretary in accordance with rules prescribed by the secretary.

(3) Upon request of the taxpayer, the secretary shall furnish the taxpayer a copy of the record of the assessment.

(b)(1) The secretary shall collect all taxes imposed by any state tax law.

(2)(A)(i) The secretary shall issue a final assessment to each taxpayer liable for the unpaid tax.

(ii) The final assessment shall state the amount of the assessment and demand payment within ten (10) days of the assessment.

(iii) The final assessment shall not be issued before the expiration of time for the taxpayer to request an administrative hearing under § 26-18-404 or under the Independent Tax Appeals Commission Act, § 26-18-1101 et seq.

(B) If the taxpayer has requested administrative relief under § 26-18-404 or under the Independent Tax Appeals Commission Act, § 26-18-1101 et seq., the final assessment shall be issued according to § 26-18-405 or the Independent Tax Appeals Commission Act, § 26-18-1101 et seq., as applicable.

(C)(i) If the taxpayer has paid the assessment before the time for the issuance of the final assessment, no final assessment shall be issued.

(ii) The taxpayer may seek to recover the payment of the assessment only if § 26-18-403 or § 26-18-406 applies.

(3) Upon receipt of the final assessment from the secretary, the person liable for the tax shall pay the stated amount including any interest, additions to tax, and assessable penalties at the place and time stated in the final assessment.

History. Acts 1979, No. 401, § 12; A.S.A. 1947, § 84-4712; Acts 2003, No. 1718, §§ 3-5; 2019, No. 315, § 2942; 2021, No. 593, § 8.

A.C.R.C. Notes. Under Acts 2021, No. 593, § 42, the effectiveness of Acts 2021, No. 593, was contingent on the enactment of House Bill 1468 during the Ninety-Third Regular Session. House Bill 1468 was enacted during the Ninety-Third Regular Session and became Acts 2021, No. 586, on April 6, 2021.

Publisher's Notes. For text of section effective until January 1, 2023, see the bound volume.

Amendments. The 2021 amendment inserted "or under the Independent Tax Appeals Commission Act, § 26-18-1101 et seq." in (b)(2)(A)(iii) and (b)(2)(B), and added "or the Independent Tax Appeals Commission Act, § 26-18-1101 et seq., as applicable" in (b)(2)(B).

Effective Dates. Acts 2021, No. 593, § 41: Jan. 1, 2023.

Acts 2021, No. 593, § 42, provided: “Legislative intent — Contingent effectiveness.

“(a) The General Assembly intends for this act to be effective only if the Arkansas Code is amended to expressly authorize, implement, and enable the hearing and determination of tax appeals by the Tax Appeals Commission under the Arkansas Tax Procedure Act, § 26-18-101 et seq., the Independent Tax Appeals Commission Act, § 26-18-1101 et seq., and any other

relevant laws.

“(b)(1) This act shall not become effective unless HB1468 of 2021 is enacted during the Ninety-Third Regular Session of the General Assembly.

“(2) If HB1468 of 2021 is not enacted during the Ninety-Third Regular Session of the General Assembly, this act expires retroactively upon the sine die adjournment of the Ninety-Third Regular Session of the General Assembly.”

26-18-402. Jeopardy assessment. [Effective January 1, 2023.]

(a) Regardless of the date on which a return or payment is due or a taxable period of a taxpayer closes, the Secretary of the Department of Finance and Administration shall declare the taxable period of any state tax terminated for that person and shall issue a jeopardy assessment and assess the tax from any information in his or her possession, notify the taxpayer, and demand immediate payment if the secretary believes that:

(1) The tax liability of any person who has a bond on file with the secretary to indemnify the state for the payment of any state tax is in excess of the amount of the bond;

(2) A taxpayer intends to depart from the state, to remove his or her property therefrom, or to conceal himself or herself or any of his or her property therein;

(3) A taxpayer intends to discontinue business without making adequate provisions for payment of all state tax; or

(4) A taxpayer intends to do any other act tending to prejudice, jeopardize, or render wholly or partially ineffectual proceedings to compute, assess, or collect any state tax.

(b)(1) Within five (5) days after the date on which a notice and demand for payment is made under subsection (a) of this section, the secretary shall provide the taxpayer with a written statement of the information upon which the secretary relies in making such assessment.

(2) A taxpayer may seek relief from a jeopardy assessment issued by the secretary under this section by filing an administrative protest of the assessment under the Arkansas Tax Procedure Act, § 26-18-101 et seq., or by filing a petition under the Independent Tax Appeals Commission Act, § 26-18-1101 et seq., within five (5) business days of the issuance of a statement under subdivision (b)(1) of this section.

(c)(1)(A) When the taxpayer requests a hearing, the secretary or the Tax Appeals Commission, as applicable, shall hold the hearing within five (5) business days of receipt of the request.

(B) After a hearing, the secretary or the commission shall determine whether the making of the assessment under subsection (a) of this section is reasonable under the circumstances and shall render a written decision.

(2) The taxpayer has three (3) days after the receipt of the written decision by the secretary or the commission under this section either to pay the tax and applicable penalty and interest due or to seek judicial relief from the decision under § 26-18-406 prior to the secretary's issuing a certificate of indebtedness.

(3) The secretary may seek judicial relief from a decision of the commission under § 26-18-406(c) or § 26-18-1117 by filing suit in the Pulaski County Circuit Court or in the circuit court of the county in which the taxpayer resides or has its principal place of business in the state within three (3) days after the date of the written decision.

(d) Whenever the secretary issues a jeopardy assessment, he or she shall have the burden of proving the reasonableness of the assessment.

History. Acts 1979, No. 401, § 13; A.S.A. 1947, § 84-4713; Acts 1989, No. 590, §§ 4, 5; 2021, No. 593, § 9.

A.C.R.C. Notes. Under Acts 2021, No. 593, § 42, the effectiveness of Acts 2021, No. 593, was contingent on the enactment of House Bill 1468 during the Ninety-Third Regular Session. House Bill 1468 was enacted during the Ninety-Third Regular Session and became Acts 2021, No. 586, on April 6, 2021.

Publisher's Notes. For text of section effective until January 1, 2023, see the bound volume.

Amendments. The 2021 amendment rewrote (b)(2); redesignated former provisions of (c) as (c)(1)(A), (c)(1)(B) and (c)(2); inserted "or the Tax Appeals Commission, as applicable" in (c)(1)(A); in (c)(1)(B), inserted "or the commission" and substituted "a written decision" for "his or her decision"; in (c)(2), substituted "written decision by the secretary or the commission under this section" for "secretary's decision" and substituted "seek judicial relief from the decision under § 26-18-406" for "protest the decision of the secre-

tary as provided by § 26-18-406(a)"; and added (c)(3).

Effective Dates. Acts 2021, No. 593, § 41: Jan. 1, 2023.

Acts 2021, No. 593, § 42, provided: "Legislative intent — Contingent effectiveness.

"(a) The General Assembly intends for this act to be effective only if the Arkansas Code is amended to expressly authorize, implement, and enable the hearing and determination of tax appeals by the Tax Appeals Commission under the Arkansas Tax Procedure Act, § 26-18-101 et seq., the Independent Tax Appeals Commission Act, § 26-18-1101 et seq., and any other relevant laws.

"(b)(1) This act shall not become effective unless HB1468 of 2021 is enacted during the Ninety-Third Regular Session of the General Assembly.

"(2) If HB1468 of 2021 is not enacted during the Ninety-Third Regular Session of the General Assembly, this act expires retroactively upon the sine die adjournment of the Ninety-Third Regular Session of the General Assembly."

26-18-403. Proposed assessments. [Effective January 1, 2023.]

(a)(1) If any taxpayer fails to file any return as required by any state tax law, the Secretary of the Department of Finance and Administration from any information in his or her possession or obtainable by him or her, may determine the correct amount of tax for the taxable period. If a return has been filed, the secretary shall examine the return and make any audit or investigation that he or she considers necessary.

(2)(A) When a return has not been filed and the secretary determines that there is a tax due for the taxable period or when a return has been filed and the secretary determines that the tax disclosed by the return is less than the tax disclosed by his or her examination, the

secretary shall propose the assessment of additional tax plus penalties, as the case may be, and shall give notice of the proposed assessment to the taxpayer.

(B) The notice required under subdivision (a)(2)(A) of this section shall:

(i) Explain the basis for the proposed assessment;

(ii)(a) State that a final assessment, as provided by § 26-18-401, will be made if the taxpayer does not protest the proposed assessment as provided by § 26-18-404 or file a petition under the Independent Tax Appeals Commission Act, § 26-18-1101 et seq., as applicable.

(b) The taxpayer does not have to protest the proposed assessment to later be entitled to exercise the right to seek a judicial review of the assessment under § 26-18-406; and

(iii) Provide contact information for the taxpayer to use if the taxpayer wants to obtain his or her tax records, including without limitation the facts and evidence supporting the proposed assessment, from the Department of Finance and Administration.

(b) Any demand for additional payment of a state tax which is made as the result of a verification of a mathematical error on the return shall not be deemed to be a proposed assessment under the provisions of this section and shall not be subject to the hearing or appeal provisions of this chapter.

(c)(1) An erroneously paid refund is a tax deficiency and is subject to assessment under this section.

(2)(A) When an erroneously paid refund is issued to a taxpayer, the secretary shall issue a notice of proposed assessment for the amount of the erroneously paid refund, plus interest and any penalty authorized under this chapter.

(B) The notice of proposed assessment to recover an erroneously paid refund shall explain the basis for the proposed assessment and shall inform the taxpayer that a final assessment under § 26-18-401 shall be made if the taxpayer fails to protest the assessment under § 26-18-404 or fails to file a petition under the Independent Tax Appeals Commission Act, § 26-18-1101 et seq.

(3) Sections 26-18-404 — 26-18-406 and 26-18-701 and the Independent Tax Appeals Commission Act, § 26-18-1101 et seq., apply to assessments of erroneously paid refunds.

(4) Interest and penalties imposed on a tax deficiency are subject to waiver or abatement in accordance with the procedure established in § 26-18-705(b) if the tax deficiency arose from an error by the department that resulted in the issuance of an erroneously paid refund.

History. Acts 1979, No. 401, § 18; A.S.A. 1947, § 84-4718; Acts 1997, No. 1139, § 1; 2017, No. 881, § 1; 2017, No. 999, § 5; 2021, No. 593, §§ 10-12.

A.C.R.C. Notes. Under Acts 2021, No. 593, § 42, the effectiveness of Acts 2021,

No. 593, was contingent on the enactment of House Bill 1468 during the Ninety-Third Regular Session. House Bill 1468 was enacted during the Ninety-Third Regular Session and became Acts 2021, No. 586, on April 6, 2021.

Publisher's Notes. For text of section effective until January 1, 2023, see the bound volume.

Amendments. The 2021 amendment added "or file a petition under the Independent Tax Appeals Commission Act, § 26-18-1101 et seq., as applicable" in (a)(2)(B)(ii)(a); added "or fails to file a petition under the Independent Tax Appeals Commission Act, § 26-18-1101 et seq." in (c)(2)(B); and inserted "and the Independent Tax Appeals Commission Act, § 26-18-1101 et seq." in (c)(3).

Effective Dates. Acts 2021, No. 593, § 41: Jan. 1, 2023.

Acts 2021, No. 593, § 42, provided: "Legislative intent — Contingent effectiveness.

"(a) The General Assembly intends for

this act to be effective only if the Arkansas Code is amended to expressly authorize, implement, and enable the hearing and determination of tax appeals by the Tax Appeals Commission under the Arkansas Tax Procedure Act, § 26-18-101 et seq., the Independent Tax Appeals Commission Act, § 26-18-1101 et seq., and any other relevant laws.

"(b)(1) This act shall not become effective unless HB1468 of 2021 is enacted during the Ninety-Third Regular Session of the General Assembly.

"(2) If HB1468 of 2021 is not enacted during the Ninety-Third Regular Session of the General Assembly, this act expires retroactively upon the sine die adjournment of the Ninety-Third Regular Session of the General Assembly."

26-18-404. Taxpayer relief. [Effective January 1, 2023.]

(a) Any taxpayer who wishes to seek administrative relief from any proposed assessment of taxes or from a denial of a claim for refund by the Secretary of the Department of Finance and Administration shall follow the procedure provided by this section.

(b)(1) A taxpayer may at his or her option either request the secretary to consider his or her request for relief solely upon written documents furnished by the taxpayer or upon the written documents and any evidence produced by the taxpayer at a hearing.

(2) A taxpayer who requests the secretary to render his or her decision based on written documents is not entitled by law to any other administrative hearing prior to the secretary's rendering of his or her decision and, if necessary, the issuing of a final assessment and demand for payment or issuing of a certificate of indebtedness.

(c)(1) Within sixty (60) days after service of notice of the proposed assessment or denial of a claim for refund, the taxpayer may file with the secretary a written protest under oath, signed by the taxpayer or the taxpayer's authorized agent, setting forth the taxpayer's reasons for opposing the proposed assessment or the denial of a claim for refund.

(2) No administrative relief will be available to a taxpayer who fails to protest or to a taxpayer who fails to request an extension of time to protest a proposed assessment of tax or denial of a claim for refund within the sixty (60) days following the service of notice of the proposed assessment or denial of a claim for refund.

(d) The secretary may, in his or her discretion, extend the time for filing a protest for any period of time not to exceed an additional ninety-day period.

(e) Administrative relief is not available to a taxpayer under this section for a proposed assessment or a refund claim denial issued by the secretary on or after January 1, 2023.

History. Acts 1979, No. 401, § 19; A.S.A. 1947, § 84-4719; Acts 1997, No. 1139, §§ 2, 3; 1999, No. 1277, §§ 1, 2; 2007, No. 212, § 1; 2021, No. 593, § 13.

A.C.R.C. Notes. Under Acts 2021, No. 593, § 42, the effectiveness of Acts 2021, No. 593, was contingent on the enactment of House Bill 1468 during the Ninety-Third Regular Session. House Bill 1468 was enacted during the Ninety-Third Regular Session and became Acts 2021, No. 586, on April 6, 2021.

Publisher's Notes. For text of section effective until January 1, 2023, see the bound volume.

Amendments. The 2021 amendment added (e).

Effective Dates. Acts 2021, No. 593, § 41: Jan. 1, 2023.

Acts 2021, No. 593, § 42, provided: "Legislative intent — Contingent effectiveness.

"(a) The General Assembly intends for this act to be effective only if the Arkansas Code is amended to expressly authorize, implement, and enable the hearing and determination of tax appeals by the Tax Appeals Commission under the Arkansas Tax Procedure Act, § 26-18-101 et seq., the Independent Tax Appeals Commission Act, § 26-18-1101 et seq., and any other relevant laws.

"(b)(1) This act shall not become effective unless HB1468 of 2021 is enacted during the Ninety-Third Regular Session of the General Assembly.

"(2) If HB1468 of 2021 is not enacted during the Ninety-Third Regular Session of the General Assembly, this act expires retroactively upon the sine die adjournment of the Ninety-Third Regular Session of the General Assembly."

26-18-405. Hearing on proposed assessments. [Effective January 1, 2023.]

(a)(1) The Secretary of the Department of Finance and Administration shall appoint a hearing officer to review all written protests submitted by taxpayers, hold all hearings, and make written findings as to the applicability of the proposed assessment or the denial of the claim for refund.

(2) Decisions of the hearing officer shall be final unless revised by the secretary.

(3) The hearings on written and oral protests and determinations made by the hearing officer shall not be subject to the provisions of the Arkansas Administrative Procedure Act, § 25-15-201 et seq.

(b) The secretary may appoint one (1) or more hearing officers, but the persons occupying these appointments shall not contemporaneously with the holding of these appointments have any other administrative duties within the Revenue Division of the Department of Finance and Administration.

(c) The actual hearing on the written protest shall be held in any city in which the Revenue Division of the Department of Finance and Administration maintains a field audit district office or in such other city as the secretary shall, in his or her discretion, designate.

(d)(1)(A) All written protests filed with the secretary shall be delivered promptly to the hearing officer.

(B) The hearing officer shall set the time and place for the hearing on a written protest and shall give the taxpayer reasonable notice of the hearing.

(C) If it is not possible for the hearing officer to hold a hearing and issue a decision on a protest of a proposed assessment within one hundred eighty (180) days after the taxpayer files a written protest

for reasons that the hearing officer determines are beyond the taxpayer's control, the secretary shall waive the interest for the period from the time the written protest is filed until the final assessment is issued.

(2) At the hearing, the taxpayer may be represented by an authorized representative and may present evidence in support of his or her position.

(3) After the hearing, the hearing officer shall render his or her decision in writing and shall serve copies upon both the taxpayer and the section or division of the Department of Finance and Administration which proposed the assessment or the denial of the claim for refund.

(4)(A)(i) If the proposed assessment or denial of a claim for refund is sustained, in whole or part, the taxpayer or legal counsel for the secretary may request in writing, within twenty (20) days of the mailing of the decision, that the secretary revise the decision of the hearing officer.

(ii) No request for revision will be considered unless it is received by the secretary within twenty (20) days of the mailing of the hearing decision.

(iii) Either the taxpayer or legal counsel for the secretary shall provide a copy of any written request for revision to the other.

(iv) The secretary may hold the supplemental proceedings on any request for revision and shall issue a decision on the request within sixty (60) days of the receipt of the request for revision.

(B) If the secretary refuses to make a revision or if the taxpayer or legal counsel for the secretary does not make a request for revision, then the secretary shall send either:

(i) A final assessment to the taxpayer, as provided by § 26-18-401, that is made upon the final determination of the hearing officer that sustained a proposed assessment of tax; or

(ii) A notice in writing to both the taxpayer and legal counsel for the secretary, if a revision was requested, of his or her decision not to revise a decision that resulted in no tax due, including the denial of a claim for refund.

(C)(i) If the secretary revises the decision of the hearing officer, the secretary shall send the final decision of the secretary to the taxpayer and to the legal counsel for the secretary.

(ii) A notice of final assessment shall be made upon the decision of the secretary if the secretary's decision sustained a proposed assessment of tax.

(iii) No further notice will be issued for a final decision of the secretary that results in no tax due, including the denial of a claim for refund.

(D) A taxpayer may not request revision of a decision issued by the secretary under this subdivision (d)(4).

(e) A taxpayer may seek relief from the final decision of the hearing officer or the secretary on a final assessment of a tax deficiency or a

notice of denial of a claim for refund by following the procedure set forth in § 26-18-406.

(f)(1) In addition to the hearing procedures set out in subsections (a)-(e) of this section, the secretary may hold administrative hearings by telephone, video conference, or other electronic means if the secretary determines that conducting the hearing in such a manner:

(A) Is in the best interest of the taxpayer and the department;

(B) Provides the same level of legal protection as provided in an in-person hearing or a hearing on written documents, including without limitation adequate due process;

(C) Is not unduly expensive for the taxpayer or the department; and

(D) Adequately protects the confidentiality of the taxpayer's information.

(2) The secretary may contract with third parties for all services necessary to conduct hearings by telephone, video, or other electronic means.

(3) Any person who enters into a contract with the secretary to provide services necessary to conduct hearings by telephone, video, or other electronic means shall be subject to the requirements of this chapter providing for the confidentiality of all taxpayer records.

(g) Administrative relief is not available to a taxpayer under this section for a proposed assessment or a refund claim denial issued by the secretary on or after January 1, 2023.

History. Acts 1979, No. 401, § 20; A.S.A. 1947, § 84-4720; Acts 1993, No. 332, § 4; 1995, No. 655, § 1; 1997, No. 1139, §§ 4-6; 1999, No. 1277, §§ 3-5; 2007, No. 212, § 2; 2011, No. 585, § 1; 2013, No. 1135, § 1; 2019, No. 850, § 1; 2021, No. 593, § 14.

A.C.R.C. Notes. Under Acts 2021, No. 593, § 42, the effectiveness of Acts 2021, No. 593, was contingent on the enactment of House Bill 1468 during the Ninety-Third Regular Session. House Bill 1468 was enacted during the Ninety-Third Regular Session and became Acts 2021, No. 586, on April 6, 2021.

Publisher's Notes. For text of section effective until January 1, 2023; see the bound volume.

Amendments. The 2021 amendment added (g).

Effective Dates. Acts 2021, No. 593, § 41: Jan. 1, 2023.

Acts 2021, No. 593, § 42, provided: "Legislative intent — Contingent effectiveness.

"(a) The General Assembly intends for this act to be effective only if the Arkansas Code is amended to expressly authorize, implement, and enable the hearing and determination of tax appeals by the Tax Appeals Commission under the Arkansas Tax Procedure Act, § 26-18-101 et seq., the Independent Tax Appeals Commission Act, § 26-18-1101 et seq., and any other relevant laws.

"(b)(1) This act shall not become effective unless HB1468 of 2021 is enacted during the Ninety-Third Regular Session of the General Assembly.

"(2) If HB1468 of 2021 is not enacted during the Ninety-Third Regular Session of the General Assembly, this act expires retroactively upon the sine die adjournment of the Ninety-Third Regular Session of the General Assembly."

26-18-406. Judicial relief. [Effective January 1, 2023.]

(a) A taxpayer may seek judicial relief from a final assessment not protested by the taxpayer under § 26-18-404 or under the Independent

Tax Appeals Commission Act, § 26-18-1101 et seq., or from a final decision by the Secretary of the Department of Finance and Administration under § 26-18-405 or by the Tax Appeals Commission under the Independent Tax Appeals Commission Act, § 26-18-1101 et seq., by:

(1)(A) Filing suit for judicial relief from the final assessment or decision within one hundred eighty (180) days of the date of the final assessment or decision.

(B) A taxpayer filing suit under this subdivision (a)(1) shall not be required to pay the state tax, penalties, and interest due before filing suit;

(2) Paying the entire amount of state tax due within one (1) year of the date of the final assessment or decision and filing suit to recover that amount within one (1) year of the date of payment; or

(3) Filing suit to recover assessed tax, penalty, and interest paid prior to the time for issuance of the final assessment within one (1) year of the date of the final decision of the secretary under § 26-18-405 or the commission under the Independent Tax Appeals Commission Act, § 26-18-1101 et seq.

(b)(1) A taxpayer may seek judicial relief from a final decision denying a claim for refund by filing suit to recover the amount claimed within one (1) year from the mailing of the denial of the secretary under § 26-18-507, or a final decision of the secretary under § 26-18-405 or the commission under the Independent Tax Appeals Commission Act, § 26-18-1101 et seq., whichever is later.

(2) The secretary may seek judicial relief under § 26-18-1117 from a decision of the commission concerning the assessment of a tax deficiency or the denial of a claim for refund by filing suit within (30) days of the date of the decision of the commission.

(c)(1)(A) Jurisdiction for a suit by a taxpayer to contest a decision of the secretary or the commission under this section is in the Pulaski County Circuit Court or the circuit court of the county in which the taxpayer resides or has his or her principal place of business, where the matter shall be tried de novo.

(B) Jurisdiction for a suit by the secretary to contest a decision of the commission under this section is in the Pulaski County Circuit Court or in the circuit court of the county in which the taxpayer resides or has its principal place of business in the state, where the matter shall be tried de novo.

(2) An appeal of a circuit court decision under this section will lie from the circuit court to the Supreme Court, as in other cases provided by law.

(3) A presumption of correctness or weight of authority shall not attach to a final assessment or decision of the secretary or the commission in a trial de novo or an appeal under this section.

(d)(1) The methods provided in this section shall be the sole alternative methods for seeking relief from a written decision of the secretary or the commission.

(2) An injunction shall not issue to stay proceedings for assessment or collection of taxes levied under state tax law.

(e)(1) In a court proceeding under this section, the:

(A) Prevailing party may be awarded a judgment for court costs; and

(B) Taxpayer may be awarded reasonable attorney's fees if the:

(i) Secretary revised a decision of the hearing officer in favor of the taxpayer under § 26-18-405;

(ii) Taxpayer is the prevailing party in an action for judicial relief from the decision of the secretary under this section; and

(iii) Court finds that the secretary's revision was without a reasonable basis in law and fact.

(2) A judgment of court costs entered by the court in favor of either party or of attorney's fees awarded in favor of the taxpayer shall be treated, for purposes of this chapter, in the same manner as an overpayment or deficiency of tax, except that interest or penalty shall not be allowed or assessed with respect to a judgment for court costs or attorney's fees.

(f) If a taxpayer pays the tax, penalty, and interest assessed under § 26-18-403 and does not request administrative relief according to § 26-18-404 or the Independent Tax Appeals Commission Act, § 26-18-1101 et seq., then:

(1) The taxpayer may seek judicial relief from the assessment only if the taxpayer files suit in circuit court within one (1) year from the date of payment of the assessment; and

(2) The provisions of § 26-18-507 shall not apply to the payments.

(g) The Arkansas Rules of Civil Procedure and § 16-56-126 concerning nonsuit and commencement of new actions apply to appeals under this section.

History. Acts 1979, No. 401, §§ 21, 22; 1981, No. 914, § 5; A.S.A. 1947, §§ 84-4721, 84-4722; Acts 1997, No. 1139, § 7; 1999, No. 1277, § 6; 2003, No. 1718, §§ 6-8; 2009, No. 755, § 2; 2011, No. 585, § 2; 2015, No. 896, § 5; 2021, No. 593, § 15.

A.C.R.C. Notes. Under Acts 2021, No. 593, § 42, the effectiveness of Acts 2021, No. 593, was contingent on the enactment of House Bill 1468 during the Ninety-Third Regular Session. House Bill 1468 was enacted during the Ninety-Third Regular Session and became Acts 2021, No. 586, on April 6, 2021.

Publisher's Notes. For text of section effective until January 1, 2023, see the bound volume.

Amendments. The 2021 amendment rewrote (a) through (d); substituted "decision" for "determination" in (e)(1)(B)(ii); and inserted "or the Independent Tax Appeals Commission Act, § 26-18-1101 et seq." in the introductory language of (f).

Effective Dates. Acts 2021, No. 593, § 41: Jan. 1, 2023.

Acts 2021, No. 593, § 42, provided: "Legislative intent — Contingent effectiveness.

"(a) The General Assembly intends for this act to be effective only if the Arkansas Code is amended to expressly authorize, implement, and enable the hearing and determination of tax appeals by the Tax Appeals Commission under the Arkansas Tax Procedure Act, § 26-18-101 et seq., the Independent Tax Appeals Commission Act, § 26-18-1101 et seq., and any other relevant laws.

"(b)(1) This act shall not become effective unless HB1468 of 2021 is enacted during the Ninety-Third Regular Session of the General Assembly.

"(2) If HB1468 of 2021 is not enacted during the Ninety-Third Regular Session of the General Assembly, this act expires retroactively upon the sine die adjournment of the Ninety-Third Regular Session of the General Assembly."

SUBCHAPTER 5 — LIABILITY AND PAYMENT

SECTION.

26-18-507. Claims for refunds of overpayments. [Effective until January 1, 2023.]

SECTION.

26-18-507. Claims for refunds of overpayments. [Effective January 1, 2023.]

Effective Dates. Acts 2021, No. 593 § 41: Jan. 1, 2023.

Acts 2021, No. 593, § 42, provided: "Legislative intent — Contingent effectiveness.

"(a) The General Assembly intends for this act to be effective only if the Arkansas Code is amended to expressly authorize, implement, and enable the hearing and determination of tax appeals by the Tax Appeals Commission under the Arkansas Tax Procedure Act, § 26-18-101 et seq., the Independent Tax Appeals Commission Act, § 26-18-1101 et seq., and any other

relevant laws.

"(b)(1) This act shall not become effective unless HB1468 of 2021 is enacted during the Ninety-Third Regular Session of the General Assembly.

"(2) If HB1468 of 2021 is not enacted during the Ninety-Third Regular Session of the General Assembly, this act expires retroactively upon the sine die adjournment of the Ninety-Third Regular Session of the General Assembly." House Bill 1468 was enacted during the Ninety-Third Regular Session and became Acts 2021, No. 586, on April 6, 2021.

26-18-507. Claims for refunds of overpayments. [Effective until January 1, 2023.]

(a)(1) Any taxpayer who has paid any state tax to the State of Arkansas in excess of the state taxes lawfully due, subject to the requirements of this chapter, shall be refunded the overpayment of the state tax determined by the Secretary of the Department of Finance and Administration to be erroneously paid upon the filing of an amended return or a verified claim for refund, subject to subsection (e) of this section.

(2) This subsection does not include an action based on Arkansas Constitution, Article 16, § 13.

(b) The claim shall specify:

- (1) The name of the taxpayer;
- (2) The time when and the period for which the state tax was paid;
- (3) The nature and kind of state tax paid;
- (4) The amount of the state tax that the taxpayer claimed was erroneously paid;
- (5) The grounds upon which a refund is claimed; and
- (6) Any other information relative to the payment as may be prescribed by the secretary.

(c) The secretary shall determine what amount of refund, if any, is due as soon as practicable after a claim has been filed, but in no event shall the taxpayer be entitled to file a suit for refund under § 26-18-406 until at least six (6) months have elapsed from the date of the filing of the claim for refund or the secretary has issued a notice of denial of a claim for refund.

(d) Notwithstanding any provisions of the law to the contrary, a taxpayer who acts only as an agent of the state in the collection of any state tax shall be entitled to claim a credit or refund of the state tax only if the taxpayer establishes that he or she has:

- (1) Borne the state tax in question;
- (2) Repaid the amount of the state tax to the person from whom he or she collected it; or
- (3) Obtained the consent of the person to the allowance of the credit or refund.

(e)(1)(A) The secretary shall make a written determination and give notice to the taxpayer concerning whether a refund is due.

(B)(i) If a refund is due, the secretary shall certify that the claim is to be paid to the taxpayer as provided by law or credited against state taxes due or to become due.

(ii)(a) If the secretary determines that the taxpayer entitled to the refund has an outstanding state tax delinquency for which a final assessment has been issued or a certificate of indebtedness has been filed, the secretary shall apply the refund due as payment against the outstanding state tax delinquency. If the amount of the state tax refund exceeds the amount of the outstanding state tax delinquency, the excess amount shall be paid to the taxpayer in accordance with subdivision (e)(1)(B)(i) of this section.

(b) The secretary shall notify each taxpayer in writing whose refund results from the filing of a joint return that the joint refund will be applied against the outstanding state tax delinquency.

(c) A taxpayer who claims that only the taxpayer's spouse owes the delinquent state tax debt may seek administrative relief by filing a written protest under oath within thirty (30) days after the notice under subdivision (e)(1)(B)(ii)(b) is received that includes information regarding why the taxpayer does not owe the delinquent state tax debt and either requests a hearing in person or based upon the information submitted with the protest.

(d) A hearing on a written protest made under this subdivision (e)(1)(B)(ii) and any judicial relief requested following the administrative hearing process shall be provided in accordance with the applicable provisions of §§ 26-18-405 and 26-18-406.

(2)(A) If the secretary's determination is to disallow the claim for refund, in whole or in part, then the secretary shall immediately issue a written decision giving notice to the taxpayer of the denial of the claim for refund.

(B) The taxpayer may seek administrative review and relief from the secretary's decision to deny a claim for refund by protesting as provided in §§ 26-18-404 and 26-18-405.

(3) The taxpayer may seek judicial relief under the provisions of § 26-18-406 from:

(A) A notice of a denial of a claim for refund issued by the secretary; or

(B) The secretary's failure to issue a written decision after the claim for refund has been filed for six (6) months.

(f)(1) This section shall not apply to state taxes paid as a result of an audit or proposed assessment.

(2) State taxes paid as a result of an audit or proposed assessment may not be recovered unless § 26-18-406 applies.

History. Acts 1979, No. 401, § 26; 1983, No. 379, § 24; A.S.A. 1947, § 84-4726; Acts 1997, No. 1139, §§ 8, 9; 1999, No. 1277, §§ 7, 8; 1999, No. 1373, § 1; 2003, No. 1718, § 9; 2011, No. 789, § 1; 2021, No. 718, §§ 1, 2.

effective January 1, 2023, see the following version.

Amendments. The 2021 amendment deleted “or not” following “whether” in (e)(1)(A); and inserted “a final assessment has been issued or” in the first sentence of (e)(1)(B)(ii)(a).

Publisher’s Notes. For text of section

26-18-507. Claims for refunds of overpayments. [Effective January 1, 2023.]

(a)(1) Any taxpayer who has paid any state tax to the State of Arkansas in excess of the state taxes lawfully due, subject to the requirements of this chapter, shall be refunded the overpayment of the state tax determined by the Secretary of the Department of Finance and Administration to be erroneously paid upon the filing of an amended return or a verified claim for refund, subject to subsection (e) of this section.

(2) This subsection does not include an action based on Arkansas Constitution, Article 16, § 13.

(b) The claim shall specify:

- (1) The name of the taxpayer;
- (2) The time when and the period for which the state tax was paid;
- (3) The nature and kind of state tax paid;
- (4) The amount of the state tax that the taxpayer claimed was erroneously paid;
- (5) The grounds upon which a refund is claimed; and
- (6) Any other information relative to the payment as may be prescribed by the secretary.

(c) The secretary shall determine what amount of refund, if any, is due as soon as practicable after a claim has been filed, but in no event shall the taxpayer be entitled to file a suit for refund under § 26-18-406 until at least six (6) months have elapsed from the date of the filing of the claim for refund or the secretary has issued a notice of denial of a claim for refund.

(d) Notwithstanding any provisions of the law to the contrary, a taxpayer who acts only as an agent of the state in the collection of any state tax shall be entitled to claim a credit or refund of the state tax only if the taxpayer establishes that he or she has:

- (1) Borne the state tax in question;
- (2) Repaid the amount of the state tax to the person from whom he or she collected it; or
- (3) Obtained the consent of the person to the allowance of the credit or refund.

(e)(1)(A) The secretary shall make a written determination and give notice to the taxpayer concerning whether a refund is due.

(B)(i) If a refund is due, the secretary shall certify that the claim is to be paid to the taxpayer as provided by law or credited against state taxes due or to become due.

(ii)(a) If the secretary determines that the taxpayer entitled to the refund has an outstanding state tax delinquency for which a final assessment has been issued or a certificate of indebtedness has been filed, the secretary shall apply the refund due as payment against the outstanding state tax delinquency. If the amount of the state tax refund exceeds the amount of the outstanding state tax delinquency, the excess amount shall be paid to the taxpayer in accordance with subdivision (e)(1)(B)(i) of this section.

(b) The secretary shall notify each taxpayer in writing whose refund results from the filing of a joint return that the joint refund will be applied against the outstanding state tax delinquency.

(c) A taxpayer who claims that only the taxpayer's spouse owes the delinquent state tax debt may seek administrative relief by filing a written protest under § 26-18-404 or by filing a petition under the Independent Tax Appeals Commission Act, § 26-18-1101 et seq., within thirty (30) days after the notice under subdivision (e)(1)(B)(ii)(b) of this section is received that includes information regarding why the taxpayer does not owe the delinquent state tax debt and either requests a hearing in person or based upon the information submitted with the protest or petition.

(d) A hearing on a written protest or petition made under this subdivision (e)(1)(B)(ii) and any judicial relief requested following the administrative hearing process shall be provided in accordance with the applicable provisions of §§ 26-18-405 and 26-18-406 and the Independent Tax Appeals Commission Act, § 26-18-1101 et seq.

(2)(A) If the secretary's determination is to disallow the claim for refund, in whole or in part, then the secretary shall immediately issue a written decision giving notice to the taxpayer of the denial of the claim for refund.

(B) The taxpayer may seek administrative review and relief from the secretary's decision to deny a claim for refund by protesting as provided in §§ 26-18-404 and 26-18-405 or by filing a petition under the Independent Tax Appeals Commission Act, § 26-18-1101 et seq.

(3) The taxpayer may seek judicial relief under the provisions of § 26-18-406 from:

(A) A notice of a denial of a claim for refund issued by the secretary; or

(B) The secretary's failure to issue a written decision after the claim for refund has been filed for six (6) months.

(f)(1) This section shall not apply to state taxes paid as a result of an audit or proposed assessment.

(2) State taxes paid as a result of an audit or proposed assessment may not be recovered unless § 26-18-406 applies.

History. Acts 1979, No. 401, § 26; 1983, No. 379, § 24; A.S.A. 1947, § 84-4726; Acts 1997, No. 1139, §§ 8, 9; 1999, No. 1277, §§ 7, 8; 1999, No. 1373, § 1; 2003, No. 1718, § 9; 2011, No. 789, § 1; 2021, No. 593, §§ 16, 17; 2021, No. 718, §§ 1, 2.

A.C.R.C. Notes. Under Acts 2021, No. 593, § 42, the effectiveness of Acts 2021, No. 593, was contingent on the enactment of House Bill 1468 during the Ninety-Third Regular Session. House Bill 1468 was enacted during the Ninety-Third Regular Session and became Acts 2021, No. 586, on April 6, 2021.

Publisher's Notes. For text of section effective until January 1, 2023, see the preceding version.

Amendments. The 2021 amendment by No. 593 inserted “or petition” in (e)(1)(B)(ii)(c) and (d); in (e)(1)(B)(ii)(c), substituted “under § 26-18-404 or by filing a petition under the Independent Tax Appeals Commission Act, § 26-18-1101 et seq.” for “under oath” and inserted “of this section; added “and the Independent Tax Appeals Commission Act, § 26-18-1101 et seq.” in (e)(1)(B)(ii)(d); and added “or by filing a petition under the Independent Tax Appeals Commission Act, § 26-18-1101 et seq.” in (e)(2)(B).

The 2021 amendment by No. 718 deleted “or not” following “whether” in (e)(1)(A); and inserted “a final assessment has been issued or” in the first sentence of (e)(1)(B)(ii)(a).

Effective Dates. Acts 2021, No. 593, § 41: Jan. 1, 2023.

Acts 2021, No. 593, § 42, provided: “Legislative intent — Contingent effectiveness.

“(a) The General Assembly intends for this act to be effective only if the Arkansas Code is amended to expressly authorize, implement, and enable the hearing and determination of tax appeals by the Tax Appeals Commission under the Arkansas Tax Procedure Act, § 26-18-101 et seq., the Independent Tax Appeals Commission Act, § 26-18-1101 et seq., and any other relevant laws.

“(b)(1) This act shall not become effective unless HB1468 of 2021 is enacted during the Ninety-Third Regular Session of the General Assembly.

“(2) If HB1468 of 2021 is not enacted during the Ninety-Third Regular Session of the General Assembly, this act expires retroactively upon the sine die adjournment of the Ninety-Third Regular Session of the General Assembly.”

SUBCHAPTER 6 — LICENSES, PERMITS, AND REGISTRATIONS

SECTION.

26-18-601. Cancellation or refusal of license or permit. [Effective January 1, 2023.]

SECTION.

26-18-602. Judicial review of cancellation decision. [Effective January 1, 2023.]

Effective Dates. Acts 2021, No. 593 § 41: Jan. 1, 2023.

Acts 2021, No. 593, § 42, provided: “Legislative intent — Contingent effectiveness.

“(a) The General Assembly intends for this act to be effective only if the Arkansas Code is amended to expressly authorize, implement, and enable the hearing and determination of tax appeals by the Tax Appeals Commission under the Arkansas Tax Procedure Act, § 26-18-101 et seq., the Independent Tax Appeals Commission Act, § 26-18-1101 et seq., and any other

relevant laws.

“(b)(1) This act shall not become effective unless HB1468 of 2021 is enacted during the Ninety-Third Regular Session of the General Assembly.

“(2) If HB1468 of 2021 is not enacted during the Ninety-Third Regular Session of the General Assembly, this act expires retroactively upon the sine die adjournment of the Ninety-Third Regular Session of the General Assembly.” House Bill 1468 was enacted during the Ninety-Third Regular Session and became Acts 2021, No. 586, on April 6, 2021.

26-18-601. Cancellation or refusal of license or permit. [Effective January 1, 2023.]

(a)(1) The Secretary of the Department of Finance and Administration may cancel or refuse to issue, extend, or reinstate a license, permit, or registration under any state tax law to a person or taxpayer who has within the last three (3) years failed to comply with a state law concerning the timely reporting and payment of a state tax administered by the secretary or failed to observe or fulfill the conditions upon which the license or permit was issued.

(2) A failure to pay assessed interest and penalties on a delinquent state tax is grounds for a decision to cancel or refuse to issue, extend, or reinstate a license, permit, or registration under this subsection.

(b)(1) When the secretary determines, in his or her sole discretion, that an emergency situation exists and that the public welfare and safety are endangered, he or she may issue an order temporarily suspending a license, permit, or registration pending a hearing before him or her or the Tax Appeals Commission under the Independent Tax Appeals Commission Act, § 26-18-1101 et seq., on the subject of the cancellation of the license, permit, or registration.

(2) The secretary shall give notice of the temporary suspension at the same time that he or she gives notice of his or her intention to cancel or to refuse to issue, extend, or reinstate any license, permit, or duplicate copy of a license or permit, as provided by this section.

(3) The temporary suspension shall be made permanent without a hearing unless the taxpayer seeks administrative review and relief from the order of temporary suspension by filing a protest under § 26-18-404 or by filing a petition under the Independent Tax Appeals Commission Act, § 26-18-1101 et seq.

(4) If a taxpayer seeks administrative review and relief under subdivision (b)(3) of this section, a hearing shall be held within three (3) days after the request for review and relief, and a decision shall be issued within three (3) business days after the conclusion of the hearing.

(c)(1) Except as set out in subsection (b) of this section, before the secretary may cancel or refuse to issue, extend, or reinstate any license, permit, or registration, he or she shall give notice of his or her proposed action, and the owner or applicant shall have twenty (20) days after receipt of the secretary's decision to request a hearing under § 26-18-405 or under the Independent Tax Appeals Commission Act, § 26-18-1101 et seq.

(2) A decision of the secretary or the Tax Appeals Commission shall be issued within twenty (20) days after the conclusion of the hearing authorized in subdivision (c)(1) of this section.

(3)(A) The taxpayer may request a revision of an adverse decision of a hearing officer appointed under § 26-18-405 by submitting the request in writing within twenty (20) calendar days of the date of the decision.

(B) If the secretary refuses to make a revision under subdivision (c)(3)(A) of this section or if the taxpayer does not request a revision, the affected taxpayer may seek relief from the hearing officer's decision by following the method provided in § 26-18-602.

(d)(1) When a license, permit, or registration is cancelled by the secretary, all accrued fees, taxes, and penalties, even though not due and payable at the time of cancellation under the state tax law imposing and levying the tax, shall become due concurrently with the cancellation of the license, permit, or registration.

(2) The licensee or permittee shall within five (5) business days of cancellation make a report to the secretary covering the period not previously covered by reports filed by that person and ending with the date of the cancellation and shall pay all accrued fees, taxes, and penalties at the time the report is made.

(3) Violation of this subsection is a Class C misdemeanor.

(e) The hearings and decisions of the secretary and the commission under this section shall not be subject to the provisions of the Arkansas Administrative Procedure Act, § 25-15-201 et seq.

(f)(1) Violations of this section shall be punished as provided in § 26-18-206.

(2) The secretary may seek to enjoin any violation of any state tax law the secretary is charged to enforce.

(g) Administrative relief from a decision of the secretary to temporarily suspend, cancel, or refuse to issue, extend, or reinstate a license, permit, or registration made on or after January 1, 2023, is available only to a taxpayer under the Independent Tax Appeals Commission Act, § 26-18-1101 et seq.

History. Acts 1979, No. 401, § 16; 1983, No. 379, § 23; A.S.A. 1947, § 84-4716; Acts 2017, No. 762, § 1; 2021, No. 593, § 18.

A.C.R.C. Notes. Under Acts 2021, No. 593, § 42, the effectiveness of Acts 2021, No. 593, was contingent on the enactment of House Bill 1468 during the Ninety-Third Regular Session. House Bill 1468 was enacted during the Ninety-Third Regular Session and became Acts 2021, No. 586, on April 6, 2021.

Publisher's Notes. For text of section effective until January 1, 2023, see the bound volume.

Amendments. The 2021 amendment rewrote (b), (c), and (e); redesignated (f) as (f)(1) and (2); added (g); and made a stylistic change.

Effective Dates. Acts 2021, No. 593, § 41: Jan. 1, 2023.

Acts 2021, No. 593, § 42, provided: "Legislative intent — Contingent effectiveness.

"(a) The General Assembly intends for this act to be effective only if the Arkansas Code is amended to expressly authorize, implement, and enable the hearing and determination of tax appeals by the Tax Appeals Commission under the Arkansas Tax Procedure Act, § 26-18-101 et seq., the Independent Tax Appeals Commission Act, § 26-18-1101 et seq., and any other relevant laws.

"(b)(1) This act shall not become effective unless HB1468 of 2021 is enacted during the Ninety-Third Regular Session of the General Assembly.

"(2) If HB1468 of 2021 is not enacted during the Ninety-Third Regular Session of the General Assembly, this act expires retroactively upon the sine die adjournment of the Ninety-Third Regular Session of the General Assembly."

26-18-602. Judicial review of cancellation decision. [Effective January 1, 2023.]

(a)(1) A taxpayer may seek judicial relief from an administrative decision rendered after a hearing cancelling a license, permit, or registration by filing suit within thirty (30) days of the date of the administrative decision.

(2) Jurisdiction for suit under subdivision (a)(1) of this section is in the Pulaski County Circuit Court or the Arkansas circuit court of the county in which the taxpayer resides or has his or her principal place of business, where the matter shall be tried *de novo*.

(3)(A) A taxpayer shall not operate a business after thirty (30) calendar days from the issuance of an administrative decision cancelling a license, permit, or registration unless the taxpayer obtains an order from the circuit court staying the effect of the administrative decision.

(B) An order of a circuit court to stay the effect of an administrative decision may be revoked if the Secretary of the Department of Finance and Administration provides proof that the taxpayer has failed to timely file returns for taxes administered by the secretary or has failed to timely pay taxes administered by the secretary after the date suit is filed under this section.

(b) The secretary may seek judicial relief from an adverse decision of the Tax Appeals Commission under § 26-18-1117 by filing suit in circuit court within thirty (30) calendar days of the date of the decision.

History. Acts 1979, No. 401, § 17; A.S.A. 1947, § 84-4717; Acts 2021, No. 593, § 18.

A.C.R.C. Notes. Under Acts 2021, No. 593, § 42, the effectiveness of Acts 2021, No. 593, was contingent on the enactment of House Bill 1468 during the Ninety-Third Regular Session. House Bill 1468 was enacted during the Ninety-Third Regular Session and became Acts 2021, No. 586, on April 6, 2021.

Publisher's Notes. For text of section effective until January 1, 2023, see the bound volume.

Amendments. The 2021 amendment rewrote the section.

Effective Dates. Acts 2021, No. 593, § 41: Jan. 1, 2023.

Acts 2021, No. 593, § 42, provided: "Legislative intent — Contingent effectiveness.

"(a) The General Assembly intends for this act to be effective only if the Arkansas Code is amended to expressly authorize, implement, and enable the hearing and determination of tax appeals by the Tax Appeals Commission under the Arkansas Tax Procedure Act, § 26-18-101 et seq., the Independent Tax Appeals Commission Act, § 26-18-1101 et seq., and any other relevant laws.

"(b)(1) This act shall not become effective unless HB1468 of 2021 is enacted during the Ninety-Third Regular Session of the General Assembly.

"(2) If HB1468 of 2021 is not enacted during the Ninety-Third Regular Session of the General Assembly, this act expires retroactively upon the sine die adjournment of the Ninety-Third Regular Session of the General Assembly."

SUBCHAPTER 7 — ENFORCEMENT

SECTION.

26-18-701. Issuance of certificates of indebtedness and execution. [Effective January 1, 2023.]

26-18-705. Settlement or compromise of liability controversies. [Ef-

SECTION.

fective until January 1, 2023.]

26-18-705. Settlement or compromise of liability controversies. [Effective January 1, 2023.]

Effective Dates. Acts 2021, No. 593 § 41: Jan. 1, 2023.

Acts 2021, No. 593, § 42, provided: “Legislative intent — Contingent effectiveness.

“(a) The General Assembly intends for this act to be effective only if the Arkansas Code is amended to expressly authorize, implement, and enable the hearing and determination of tax appeals by the Tax Appeals Commission under the Arkansas Tax Procedure Act, § 26-18-101 et seq., the Independent Tax Appeals Commission Act, § 26-18-1101 et seq., and any other

relevant laws.

“(b)(1) This act shall not become effective unless HB1468 of 2021 is enacted during the Ninety-Third Regular Session of the General Assembly.

“(2) If HB1468 of 2021 is not enacted during the Ninety-Third Regular Session of the General Assembly, this act expires retroactively upon the sine die adjournment of the Ninety-Third Regular Session of the General Assembly.” House Bill 1468 was enacted during the Ninety-Third Regular Session and became Acts 2021, No. 586, on April 6, 2021.

26-18-701. Issuance of certificates of indebtedness and execution. [Effective January 1, 2023.]

(a)(1)(A)(i) The Secretary of the Department of Finance and Administration shall, as soon as practicable, issue to the circuit clerk of any county of the state a certificate of indebtedness certifying that the taxpayer named in the certificate of indebtedness is indebted to the state for the amount of a tax deficiency assessed by the secretary if:

(a) The taxpayer fails to timely and properly protest the assessment under § 26-18-404 or file a petition under the Independent Tax Appeals Commission Act, § 26-18-1101 et seq., and fails to pay the assessed tax upon notice and demand for payment; or

(b) The assessment is sustained by the secretary under § 26-18-405 or by the Tax Appeals Commission under the Independent Tax Appeals Commission Act, § 26-18-1101 et seq., and the taxpayer fails to pay the assessed deficiency upon notice and demand for payment.

(ii)(a) The secretary may publish an electronic copy of a certificate of indebtedness issued under subdivision (a)(1)(A)(i) of this section on the official website maintained by the secretary.

(b) The secretary shall remove an electronic copy of a certificate of indebtedness published under subdivision (a)(1)(A)(ii)(a) of this section upon:

(1) Satisfaction of the underlying indebtedness that is the subject of the certificate of indebtedness; and

(2) The issuance of a release of the certificate of indebtedness on the records of the circuit clerk.

(B)(i) If a taxpayer has a delinquent tax liability to the State of Arkansas of less than one thousand dollars (\$1,000), the secretary may enter into an agreement with the taxpayer to allow the taxpayer to pay the delinquency in installments.

(ii) The secretary may choose not to issue a certificate of indebtedness during the period of the installment agreement if he or she determines that it is in the best interest of the state.

(C)(i) If a taxpayer has a total delinquent individual income tax liability to the State of Arkansas of less than two thousand dollars (\$2,000), the secretary may enter into an agreement with the taxpayer to allow the taxpayer to pay the delinquency in installments if:

(a) The installment agreement is for a period of twelve (12) months or less; and

(b) The installments are to be paid electronically.

(ii) The secretary may choose not to issue a certificate of indebtedness during the period of the installment agreement if he or she determines that the issuance of a certificate of indebtedness is not in the best interest of the state.

(2) The circuit clerk shall enter immediately upon the circuit court judgment docket:

(A) The name of the delinquent taxpayer;

(B) The amount certified as being due;

(C) The name of the tax; and

(D) The date of entry upon the judgment docket.

(3)(A)(i) The entry of the certificate of indebtedness shall have the same force and effect as the entry of a judgment rendered by the circuit court.

(ii) This entry shall constitute the state's lien upon the title of any real and personal property of the taxpayer in the county where the certificate of indebtedness is recorded.

(B) This lien is:

(i) In addition to any other lien existing in favor of the state to secure payment of taxes, applicable interest, penalties, and costs, including any costs the circuit clerk is entitled to receive as provided by law for either the filing or the release of this lien; and

(ii) Superior to:

(a) Other liens of any type or character attaching to the property after the date of entry of the certificate of indebtedness on the judgment docket; and

(b) All claims of unsecured creditors.

(C)(i)(a) The certificate of indebtedness authorized by this subsection shall continue in force for ten (10) years from the date of recording and shall automatically expire after the ten-year period has run.

(b) An action on the lien on the certificate of indebtedness shall be commenced within ten (10) years after the date of recording of the certificate, and not afterward.

(c) The secretary shall not be required to file a release on a lien which has expired, and the provisions of § 26-18-808 dealing with failure to release liens are not applicable to this section.

(d) The provisions of this subsection are applicable to both liens already on file and all future filings of liens.

(ii) A bankruptcy filing by a taxpayer tolls the ten-year period for certificates of indebtedness under subdivision (a)(3)(C)(i) of this section until one hundred eighty (180) days after the termination of the taxpayer's bankruptcy case.

(iii) The secretary may file another lien to secure a tax delinquency if:

(a) The secretary is required to release an inadvertently filed lien because the filing of a bankruptcy case has stayed collection activity; and

(b) There is no subsequent discharge of the tax delinquency.

(4) The lien authorized by this section arises at the time the secretary makes the assessment and continues until the taxpayer satisfies the assessment or the lien becomes unenforceable by operation of law.

(b)(1) After entry of the certificate of indebtedness, the circuit clerk shall issue a writ of execution directed to the secretary, authorizing the secretary to levy upon and against all real and personal property of the taxpayer.

(2) The secretary shall have all remedies and may take all proceedings for the collection of the tax which may be taken for the recovery of a judgment at law.

(3) The writ of execution shall be issued, served, and executed in the same manner as provided for in the issuance and service of executions rendered by the circuit courts of this state, except the secretary shall act in the place of the county sheriffs.

(4) The secretary shall have this authority for all liens either presently filed or filed after the passage of this act.

(c)(1) Nothing in this chapter shall preclude the secretary from resorting to any other means provided by law for collecting delinquent taxes.

(2) The issuance of a certificate of indebtedness, entry by the circuit clerk, and levy of execution as provided in this section shall not constitute an election of remedies with respect to the collection of the tax.

(3) The taxes, interest, penalties, and fees, including any costs the circuit clerk is entitled to receive as provided by law in these matters, imposed or levied by any state tax law, when due, may be collected in the same way as a personal debt of the taxpayer.

(4) In the name of the state, the secretary may sue to the same effect and extent as for the enforcement of a right of action for debt.

(5) All provisional remedies available in these actions are available to the State of Arkansas in the enforcement of the payment of any state tax.

(d)(1)(A) In addition to the remedies provided in subsections (b) and (c) of this section, the secretary may direct the circuit clerk to issue a writ of execution directed to the county sheriff of any county authorizing the county sheriff to levy upon and against all real and personal property of the taxpayer.

(B) The writ of execution shall be issued, served, and executed in the same manner as provided for in the issuance and service of executions rendered by the circuit courts of this state.

(2)(A) The circuit clerk and county sheriff shall be entitled to receive the same fees provided by law in these matters.

(B) These fees shall be collected from the taxpayer by either the secretary or the county sheriff in addition to the tax, penalties, and interest included in the certificate of indebtedness.

(C) If the county sheriff is unable after diligent effort to collect the tax, interest, penalties, and costs, the secretary may pay such fees as are properly shown to be due to the circuit clerk and county sheriff.

(e) The secretary may contract with persons inside or outside the state to help the secretary collect delinquencies of resident or nonresident taxpayers.

History. Acts 1979, No. 401, § 23; A.S.A. 1947, § 84-4723; Acts 1989, No. 590, § 3; 1993, No. 1236, § 1; 2003, No. 1085, §§ 1, 2; 2013, No. 160, § 1; 2019, No. 760, §§ 2, 3; 2019, No. 864, § 1; 2019, No. 910, §§ 3628-3635; 2021, No. 593, § 19.

A.C.R.C. Notes. Under Acts 2021, No. 593, § 42, the effectiveness of Acts 2021, No. 593, was contingent on the enactment of House Bill 1468 during the Ninety-Third Regular Session. House Bill 1468 was enacted during the Ninety-Third Regular Session and became Acts 2021, No. 586, on April 6, 2021.

Publisher's Notes. For text of section effective until January 1, 2023, see the bound volume.

Amendments. The 2021 amendment rewrote (a)(1)(A)(i).

Effective Dates. Acts 2021, No. 593, § 41: Jan. 1, 2023.

Acts 2021, No. 593, § 42, provided: "Legislative intent — Contingent effectiveness.

"(a) The General Assembly intends for this act to be effective only if the Arkansas Code is amended to expressly authorize, implement, and enable the hearing and determination of tax appeals by the Tax Appeals Commission under the Arkansas Tax Procedure Act, § 26-18-101 et seq., the Independent Tax Appeals Commission Act, § 26-18-1101 et seq., and any other relevant laws.

"(b)(1) This act shall not become effective unless HB1468 of 2021 is enacted during the Ninety-Third Regular Session of the General Assembly.

"(2) If HB1468 of 2021 is not enacted during the Ninety-Third Regular Session of the General Assembly, this act expires retroactively upon the sine die adjournment of the Ninety-Third Regular Session of the General Assembly."

26-18-705. Settlement or compromise of liability controversies. [Effective until January 1, 2023.]

(a) The Secretary of the Department of Finance and Administration may enter into an agreement to compound, settle, or compromise any controversy relating to a state tax or any admitted or established tax liability as to any tax collectible under any state law when:

- (1) The controversy is over the amount of tax due; or
- (2) The inability to pay results from the insolvency of the taxpayer.

(b) The secretary may waive or remit the interest, penalty, or certificate of indebtedness filing fees, or any portion of the interest, penalty, or certificate of indebtedness filing fees, ordinarily accruing or incurred by the secretary because of a taxpayer's failure to pay a state tax within the statutory period allowed for its payment:

(1) If the taxpayer's failure to pay the tax is satisfactorily explained to the secretary;

(2) If the failure results from a mistake by the taxpayer of either the law or the facts subjecting him or her to such tax; or

(3) If the inability to pay the interest or penalty results from the insolvency or bankruptcy of the taxpayer.

(c)(1) In settling or compromising any controversy relating to the liability of a person for any state tax for any taxable period, the secretary may enter into a written closing agreement concerning the liability.

(2) When the closing agreement is signed by the secretary, it shall be final and conclusive, and except upon a showing of fraud or misrepresentation of a material fact, no additional assessment or collection shall be made by the secretary, and the taxpayer shall not institute any judicial proceeding to recover such liabilities as agreed to in the closing agreement.

(d) The secretary shall promulgate rules establishing guidelines for determining whether a proposed offer in compromise is adequate and is acceptable to resolve a tax dispute.

History. Acts 1979, No. 401, § 24; A.S.A. 1947, § 84-4724; Acts 1999, No. 1126, § 5; 2019, No. 315, § 2944; 2019, No. 910, § 3636; 2021, No. 145, § 1.

Publisher's Notes. For text of section effective January 1, 2023, see the following version.

Amendments. The 2021 amendment, in the introductory language of (b), inserted "or certificate of indebtedness filing fees" twice and "or incurred by the secretary".

26-18-705. Settlement or compromise of liability controversies. [Effective January 1, 2023.]

(a) The Secretary of the Department of Finance and Administration may enter into an agreement to compound, settle, or compromise any controversy relating to a state tax or any admitted or established tax liability as to any tax collectible under any state law when:

(1) The controversy is over the amount of tax due; or

(2) The inability to pay results from the insolvency of the taxpayer.

(b) The secretary may waive or remit the interest, penalty, or certificate of indebtedness filing fees, or any portion of the interest, penalty, or certificate of indebtedness filing fees, ordinarily accruing or incurred by the secretary because of a taxpayer's failure to pay a state tax within the statutory period allowed for its payment:

(1) If the taxpayer's failure to pay the tax is satisfactorily explained to the secretary;

(2) If the failure results from a mistake by the taxpayer of either the law or the facts subjecting him or her to such tax; or

(3) If the inability to pay the interest or penalty results from the insolvency or bankruptcy of the taxpayer.

(c)(1) In settling or compromising any controversy relating to the liability of a person for any state tax for any taxable period, the secretary may enter into a written closing agreement concerning the liability.

(2) When the closing agreement is signed by the secretary, it shall be final and conclusive, and except upon a showing of fraud or misrepresentation of a material fact, no additional assessment or collection shall be made by the secretary, and the taxpayer shall not file a protest of the assessment under § 26-18-404, file a petition under the Independent Tax Appeals Commission Act, § 26-18-1101 et seq., or institute a judicial proceeding to recover such liabilities as agreed to in the closing agreement.

(d) The secretary shall promulgate rules establishing guidelines for determining whether a proposed offer in compromise is adequate and is acceptable to resolve a tax dispute.

History. Acts 1979, No. 401, § 24; A.S.A. 1947, § 84-4724; Acts 1999, No. 1126, § 5; 2019, No. 315, § 2944; 2019, No. 910, § 3636; 2021, No. 145, § 1; 2021, No. 593, § 20.

A.C.R.C. Notes. Under Acts 2021, No. 593, § 42, the effectiveness of Acts 2021, No. 593, was contingent on the enactment of House Bill 1468 during the Ninety-Third Regular Session. House Bill 1468 was enacted during the Ninety-Third Regular Session and became Acts 2021, No. 586, on April 6, 2021.

Publisher's Notes. For text of section effective until January 1, 2023, see the preceding version.

Amendments. The 2021 amendment by No. 145, in the introductory language of (b), inserted "or certificate of indebtedness filing fees" twice and "or incurred by the secretary".

The 2021 amendment by No. 593 inserted "file a protest of the assessment under § 26-18-404, file a petition under the Independent Tax Appeals Commission Act, § 26-18-1101 et seq., or" in (c)(2); and made a stylistic change.

Effective Dates. Acts 2021, No. 593, § 41: Jan. 1, 2023.

Acts 2021, No. 593, § 42, provided: "Legislative intent — Contingent effectiveness.

"(a) The General Assembly intends for this act to be effective only if the Arkansas Code is amended to expressly authorize, implement, and enable the hearing and determination of tax appeals by the Tax Appeals Commission under the Arkansas Tax Procedure Act, § 26-18-101 et seq., the Independent Tax Appeals Commission Act, § 26-18-1101 et seq., and any other relevant laws.

"(b)(1) This act shall not become effective unless HB1468 of 2021 is enacted during the Ninety-Third Regular Session of the General Assembly.

"(2) If HB1468 of 2021 is not enacted during the Ninety-Third Regular Session of the General Assembly, this act expires retroactively upon the sine die adjournment of the Ninety-Third Regular Session of the General Assembly."

SUBCHAPTER 10 — BUSINESS CLOSURE

SECTION.

26-18-1002. Administrative hearing. [Effective January 1, 2023.]

26-18-1003. Judicial relief — Definitions.

[Effective January 1, 2023.]

Effective Dates. Acts 2021, No. 593 § 41: Jan. 1, 2023.

Acts 2021, No. 593, § 42, provided: "Legislative intent — Contingent effectiveness.

"(a) The General Assembly intends for this act to be effective only if the Arkansas Code is amended to expressly authorize, implement, and enable the hearing and determination of tax appeals by the Tax Appeals Commission under the Arkansas Tax Procedure Act, § 26-18-101 et seq., the Independent Tax Appeals Commission Act, § 26-18-1101 et seq., and any other

relevant laws.

"(b)(1) This act shall not become effective unless HB1468 of 2021 is enacted during the Ninety-Third Regular Session of the General Assembly.

"(2) If HB1468 of 2021 is not enacted during the Ninety-Third Regular Session of the General Assembly, this act expires retroactively upon the sine die adjournment of the Ninety-Third Regular Session of the General Assembly." House Bill 1468 was enacted during the Ninety-Third Regular Session and became Acts 2021, No. 586, on April 6, 2021.

26-18-1002. Administrative hearing. [Effective January 1, 2023.]

(a) A noncompliant taxpayer may request an administrative hearing concerning the decision of the Secretary of the Department of Finance and Administration to close the noncompliant taxpayer's business by following the procedures in this section.

(b) Within five (5) business days after the delivery or attempted delivery of the notice required by § 26-18-1001(c), the noncompliant taxpayer may file a written protest or a petition, signed by the noncompliant taxpayer or his or her authorized agent, stating the reasons for opposing the closure of the business and requesting an administrative hearing before a hearing officer or the Tax Appeals Commission, as applicable.

(c)(1) A noncompliant taxpayer may request that an administrative hearing be held in person, by teleconference, by video conference, or by other electronic means.

(2)(A) The secretary and the commission have the discretion to determine whether an administrative hearing at which testimony is to be presented will be conducted in person, by teleconference, by videoconference, or by other electronic means.

(B) An in-person hearing under this section shall be held in Little Rock, Arkansas.

(d) An administrative hearing under this section shall be conducted by a hearing officer appointed by the secretary under § 26-18-405 or by the commission.

(e)(1) The hearing officer or the commission shall set the time and place for a hearing and shall give the noncompliant taxpayer and the secretary notice of the hearing.

(2) At the administrative hearing, the noncompliant taxpayer may be represented by an authorized representative and may present evidence in support of his or her position.

(f)(1) An administrative hearing under this section shall be held within fourteen (14) calendar days of receipt of the request for hearing.

(2)(A) A written administrative decision under this section shall be issued within five (5) business days of the date of the hearing and shall be served by first class mail on the noncompliant taxpayer and the secretary.

(B) A decision issued under subdivision (f)(2)(A) of this section:

(i) Is effective twenty (20) days after the date of the decision; and

(ii) Except as provided under § 26-18-1003, acts as an injunction prohibiting further operation of the business.

(g) The administrative hearing and decision made under this section are not subject to the provisions of the Arkansas Administrative Procedure Act, § 25-15-201 et seq.

(h) The defense or defenses to the closure of a business under this subchapter are:

(1) Written proof that the noncompliant taxpayer filed all delinquent returns and paid the delinquent tax due including interest and penalty; or

(2) That the noncompliant taxpayer has entered into a written payment agreement, approved by the secretary, to satisfy the tax delinquency.

(i) For a notice issued under § 26-18-1001 on or after January 1, 2023, administrative relief is available to a taxpayer only under the Independent Tax Appeals Commission Act, § 26-18-1101 et seq.

History. Acts 2003 (2nd Ex. Sess.), No. 46, § 2; 2017, No. 759, § 1; 2019, No. 910, §§ 3646-3651; 2021, No. 593, § 21.

A.C.R.C. Notes. Under Acts 2021, No. 593, § 42, the effectiveness of Acts 2021, No. 593, was contingent on the enactment of House Bill 1468 during the Ninety-Third Regular Session. House Bill 1468 was enacted during the Ninety-Third Regular Session and became Acts 2021, No. 586, on April 6, 2021.

Publisher's Notes. For text of section effective until January 1, 2023, see the bound volume.

Amendments. The 2021 amendment repealed (j) and rewrote the section.

Effective Dates. Acts 2021, No. 593, § 41; Jan. 1, 2023.

Acts 2021, No. 593, § 42, provided: "Legislative intent — Contingent effectiveness.

"(a) The General Assembly intends for this act to be effective only if the Arkansas Code is amended to expressly authorize, implement, and enable the hearing and determination of tax appeals by the Tax Appeals Commission under the Arkansas Tax Procedure Act, § 26-18-101 et seq., the Independent Tax Appeals Commission Act, § 26-18-1101 et seq., and any other relevant laws.

"(b)(1) This act shall not become effective unless HB1468 of 2021 is enacted during the Ninety-Third Regular Session of the General Assembly.

"(2) If HB1468 of 2021 is not enacted during the Ninety-Third Regular Session of the General Assembly, this act expires retroactively upon the sine die adjournment of the Ninety-Third Regular Session of the General Assembly."

26-18-1003. Judicial relief — Definitions. [Effective January 1, 2023.]

(a) As used in this section:

(1) “Administrative decision” means a decision issued under § 26-18-1002 to affirm the decision of the Secretary of the Department of Finance and Administration to close the business of a noncompliant taxpayer;

(2) “Business” means a business subject to an administrative decision; and

(3) “Business closure order” means a notice of closure issued by the secretary under § 26-18-1001.

(b)(1) A noncompliant taxpayer may seek judicial relief from an adverse administrative decision under this subchapter by filing suit within twenty (20) calendar days of the date of the administrative decision.

(2) Jurisdiction for a suit under subdivision (b)(1) of this section is in the Pulaski County Circuit Court or the circuit court of the county in which the noncompliant taxpayer resides or has his or her principal place of business, where the matter shall be tried de novo.

(3) The secretary may seek judicial relief under § 26-18-1117 from an adverse administrative decision issued by the Tax Appeals Commission by filing suit in the Pulaski County Circuit Court or in the circuit court of the county in which the noncompliant taxpayer resides or has its principal place of business in the state within twenty (20) days of the date of the administrative decision, where the matter shall be tried de novo.

(c)(1)(A) A noncompliant taxpayer shall not operate a business after twenty (20) calendar days from issuance of an administrative decision unless the noncompliant taxpayer obtains an order from the circuit court staying the effect of the administrative decision.

(B) An order of a circuit court to stay the effect of an administrative decision may be revoked if the secretary provides proof that the taxpayer has failed to timely file returns for or make full payment of the taxes identified in § 26-18-1001(a) after the date suit is filed under this section.

(2) If a noncompliant taxpayer fails to obtain an order staying the effect of the administrative decision or if an order staying the effect of the administrative decision is later revoked, the secretary shall follow the procedures in §§ 26-18-1004 and 26-18-1005 to enforce the closure of the business pending the outcome of the suit filed under this section.

(d) The noncompliant taxpayer or the secretary may file an appeal of the circuit court decision to the appropriate appellate court as provided by law.

(e)(1) If a circuit court issues an order under this section affirming a business closure order, the order of the circuit court shall constitute an injunction prohibiting further operation of the business.

(2) In order to operate a business while an appeal is pending under subsection (d) of this section, a noncompliant taxpayer shall obtain an order from the appellate court staying the decision of the circuit court.

(f) The procedures established by this section are the sole methods for seeking judicial relief from an administrative decision.

(g) A noncompliant taxpayer shall not continue to operate a business if:

(1) The noncompliant taxpayer fails to seek judicial relief from a business closure order under this section;

(2) The noncompliant taxpayer fails to obtain a stay of the effect of a business closure order under subsections (c) and (e) of this section; or

(3) A business closure order is upheld on an appeal filed under subsection (d) of this section.

(h) Upon conviction, any person responsible for the decision to operate a business in violation of this subchapter is guilty of a Class A misdemeanor.

History. Acts 2003 (2nd Ex. Sess.), No. 46, § 2; 2005, No. 1962, § 114; 2017, No. 759, § 2; 2019, No. 910, §§ 3652-3656; 2021, No. 593, § 22.

A.C.R.C. Notes. Under Acts 2021, No. 593, § 42, the effectiveness of Acts 2021, No. 593, was contingent on the enactment of House Bill 1468 during the Ninety-Third Regular Session. House Bill 1468 was enacted during the Ninety-Third Regular Session and became Acts 2021, No. 586, on April 6, 2021.

Publisher's Notes. For text of section effective until January 1, 2023, see the bound volume.

Amendments. The 2021 amendment inserted "adverse" and "under this subchapter" in (b)(1); inserted "subdivision (b)(1) of" in (b)(2); added (b)(3); and made stylistic changes.

Effective Dates. Acts 2021, No. 593, § 41: Jan. 1, 2023.

Acts 2021, No. 593, § 42, provided: "Legislative intent — Contingent effectiveness.

"(a) The General Assembly intends for this act to be effective only if the Arkansas Code is amended to expressly authorize, implement, and enable the hearing and determination of tax appeals by the Tax Appeals Commission under the Arkansas Tax Procedure Act, § 26-18-101 et seq., the Independent Tax Appeals Commission Act, § 26-18-1101 et seq., and any other relevant laws.

"(b)(1) This act shall not become effective unless HB1468 of 2021 is enacted during the Ninety-Third Regular Session of the General Assembly.

"(2) If HB1468 of 2021 is not enacted during the Ninety-Third Regular Session of the General Assembly, this act expires retroactively upon the sine die adjournment of the Ninety-Third Regular Session of the General Assembly."

SUBCHAPTER 11 — INDEPENDENT TAX APPEALS COMMISSION ACT

SECTION.

26-18-1101. Title.

26-18-1102. Legislative purpose.

26-18-1103. Legislative intent — Construction.

26-18-1104. Definition.

26-18-1105. Tax Appeals Commission — Creation.

26-18-1106. Appointment of commissioners.

26-18-1107. Qualifications of commissioners.

SECTION.

26-18-1108. Location of the Tax Appeals Commission — On-site observation.

26-18-1109. Employees.

26-18-1110. Jurisdiction.

26-18-1111. Settlement of tax disputes.

26-18-1112. Service of process.

26-18-1113. Pleadings.

26-18-1114. Stipulation.

26-18-1115. Hearings.

26-18-1116. Decisions.

SECTION.

26-18-1117. Judicial relief.

26-18-1118. Representation.

SECTION.

26-18-1119. Publication of decisions.

26-18-1120. Rules.

A.C.R.C. Notes. Acts 2021, No. 586, § 2, provided: Creation of Tax Appeals Commission — Abolition of Department of Finance and Administration Office of Hearings and Appeals.

“(a)(1) The Tax Appeals Commission shall be created by July 1, 2022.

“(2) The initial commissioners shall be appointed by July 1, 2022.

“(3) The Chief Commissioner of the Tax Appeals Commission shall be designated by July 1, 2022.

“(4) The commission shall be ready to begin accepting and trying tax disputes by January 1, 2023.

“(5) This act does not affect a hearing, prosecution, action, suit, or appeal, commenced in the judicial branch of government before the creation of the commission.

“(b) Notwithstanding § 26-18-1106:

“(1)(A) The initial commissioners appointed to the commission shall be selected from a pool of candidates with three (3) candidates recommended by each of the following:

“(i) The Arkansas Bar Association;

“(ii) The majority of the Arkansas Supreme Court; and

“(iii) The Arkansas Society of Certified Public Accountants.

“(B) Each entity recommending candidates for commissioner under subdivision (b)(1)(A) of this section shall recommend at least one (1) candidate who is:

“(i) Licensed to practice law in this state; and

“(ii) Certified as a certified public accountant in this state; and

“(2) The commissioners who are appointed during the creation of the commission shall be given initial terms of differing lengths as follows:

“(A) One (1) of the commissioners who is initially appointed shall serve an initial term of three (3) years and shall be eligible for appointment to two (2) subsequent terms of nine (9) years after the initial term;

“(B) One (1) of the commissioners who is initially appointed shall serve an initial

term of six (6) years and may be appointed to one (1) subsequent term of nine (9) years after the initial term; and

“(C) One (1) of the commissioners who is initially appointed shall serve an initial term of nine (9) years and shall be eligible for appointment to one (1) subsequent term of nine (9) years after the initial term.

“(c)(1) The Office of Hearings and Appeals shall conclude its decisions on tax disputes initiated before January 1, 2023, by May 31, 2023, and shall be fully closed by June 30, 2023.

“(2) The Department of Finance and Administration shall retain the files of the Office of Hearings and Appeals, consistent with its current recordkeeping practices.”

Acts 2021, No. 586, § 4, provided: “Rules.

“(a) When adopting the initial rules required under this act, the Tax Appeals Commission shall file the final rules with the Secretary of State for adoption under § 25-15-204(f):

“(1) On or before December 1, 2022; or

“(2) If approval under § 10-3-309 has not occurred by December 1, 2022, as soon as practicable after approval under § 10-3-309.

“(b) The commission shall file the proposed rules with the Legislative Council under § 10-3-309(c) sufficiently in advance of December 1, 2022, so that the Legislative Council may consider the rules for approval before December 1, 2022.”

Under Acts 2021, No. 586, § 5, the effectiveness of Acts 2021, No. 586, was contingent on the enactment of House Bill 1705 during the Ninety-Third Regular Session. House Bill 1705 was enacted during the Ninety-Third Regular Session and became Acts 2021, No. 593, on April 6, 2021.

Effective Dates. Acts 2021, No. 586, § 5 provided: “Legislative intent — Contingent effectiveness.

“(a) The General Assembly intends for this act to be effective only if the Arkansas Code is amended to make changes to cur-

rent statutes concerning tax procedure and the hearing of tax appeals to enable to effective implementation of this act.

“(b)(1) This act shall not become effective unless HB1705 of 2021 is enacted during the Ninety-Third Regular Session of the General Assembly.

“(2) If HB1705 of 2021 is not enacted during the Ninety-Third Regular Session of the General Assembly, this act expires retroactively upon the sine die adjournment of the Ninety-Third Regular Session of the General Assembly.”

26-18-1101. Title.

This subchapter shall be known and may be cited as the “Independent Tax Appeals Commission Act”.

History. Acts 2021, No. 586, § 1.

26-18-1102. Legislative purpose.

(a) The state shall create, within the Department of Inspector General, an independent agency with tax expertise to resolve disputes between the Department of Finance and Administration and taxpayers before requiring the payments of the amount in issue.

(b) By establishing the Tax Appeals Commission as an independent tax tribunal within the executive branch of government, this subchapter provides taxpayers with a means of resolving controversies with the Department of Finance and Administration before a neutral body.

History. Acts 2021, No. 586, § 1.

26-18-1103. Legislative intent — Construction.

This subchapter shall be interpreted and construed to further the intent of the General Assembly to provide the people of Arkansas with an independent tax appeals commission to hear and resolve tax disputes between taxpayers and the Department of Finance and Administration.

History. Acts 2021, No. 586, § 1.

26-18-1104. Definition.

As used in this subchapter, “taxpayer” means an individual or entity that:

- (1) Is challenging the state’s taxing jurisdiction over the taxpayer; or
 - (2) Has standing to challenge a decision by the Department of Finance and Administration:
 - (A) Imposing liability for a tax, penalty, or interest;
 - (B) Denying a credit or deduction;
 - (C) Denying a refund, credit, or incentive claim or application;
 - (D) Canceling, refusing, or revoking a license or permit under
- § 26-18-601, § 26-52-803, § 26-55-219, § 26-55-224, § 26-55-231, § 26-56-204, § 26-56-311, § 26-57-413, § 26-57-419, or § 26-62-204;

- (E) Closing a noncompliant taxpayer's business;
 - (F) Relating to a jeopardy assessment;
 - (G) Seizing a vending device or a coin-operated amusement device;
- or
- (H) Taking any other action that provides a taxpayer the right to a hearing with the Tax Appeals Commission under state law.

History. Acts 2021, No. 586, § 1.

26-18-1105. Tax Appeals Commission — Creation.

(a)(1) The Tax Appeals Commission is created within the Department of Inspector General and shall be under the direction, control, and supervision of the Secretary of the Department of Inspector General.

(2) Notwithstanding subdivision (a)(1) of this section, the commission shall independently decide matters before the commission.

(b) The commission shall:

- (1) Be separate from and independent of the authority, control, and supervision of the Department of Finance and Administration; and
- (2) Have a seal.

History. Acts 2021, No. 586, § 1.

26-18-1106. Appointment of commissioners.

(a)(1) The Tax Appeals Commission shall consist of three (3) commissioners who are subject to the requirements of § 26-18-1107.

(2) Commissioners shall be selected from a pool of candidates recommended as follows:

(A) The Arkansas Bar Association shall nominate three (3) individuals who are licensed to practice law in this state;

(B) The majority of the Supreme Court shall nominate three (3) individuals who are:

- (i) Licensed to practice law in this state; and
- (ii) Certified as a certified public accountant in this state; and

(C) The Arkansas Society of Certified Public Accountants shall nominate three (3) individuals who are certified as a certified public accountant in this state.

(3) The Governor shall appoint one (1) commissioner from each pool of candidates nominated under this subsection.

(b) The Chief Commissioner of the Tax Appeals Commission shall:

(1) Be appointed from the pool of candidates nominated by the Supreme Court;

(2) Meet the requirements stated in § 26-18-1107 for the position of chief commissioner;

(3) Act as the executive officer of the commission;

(4) Be subject to the same provisions of law as commissioners;

(5) Be charged with the administration of the commission;

(6) Apportion among the commission all causes, matters, and hearings coming before the commission;

(7) Take any action necessary to enable the commission to properly exercise the duties, functions, and powers of the commission under this subchapter; and

(8) Submit an annual report to the Speaker of the House of Representatives, the President Pro Tempore of the Senate, the Chair of the House Committee on Judiciary, the Chair of the Senate Committee on Judiciary, the cochairs of the Legislative Council, the Governor, and the Secretary of the Department of Inspector General that contains the following information for the year that is the subject of the report:

(A) The case load of the commission;

(B) The number of petitions filed;

(C) The number of claims settled;

(D) The number of decisions the commission rendered;

(E) The number of decisions rendered:

(i) In favor of the Department of Finance and Administration;

(ii) In favor of the taxpayer; and

(iii) Partially in favor of the department and partially in favor of the taxpayer;

(F) The number of matters heard:

(i) In person;

(ii) By teleconference or videoconference;

(iii) Using a combination of in-person and either teleconference or videoconference means; and

(iv) Solely on the documents filed with the commission; and

(G) The average time for a claim to be processed from the petition's being filed to a decision's being rendered, calculated for each type of hearing conducted by the commission.

(c) Each commissioner:

(1) Is appointed to a term of nine (9) years; and

(2) Shall not serve more than two (2) terms.

(d) Each commissioner shall receive an annual salary and benefits comparable to the salary and benefits provided to state district court judges.

(e) Once appointed, each commissioner shall:

(1) Continue his or her term until the:

(A) Commissioner is removed from his or her position under subsection (g) of this section;

(B) Commissioner is not appointed to a second term;

(C) Commissioner's final term expires;

(D) Commissioner retires his or her position;

(E) Commissioner relinquishes his or her position; or

(F) Commissioner is unable to perform his or her duties on a long-term basis; and

(2)(A) Take an oath or make an affirmation that he or she will faithfully discharge his or her duties under this subchapter.

(B) The oath or affirmation required under subdivision (e)(2)(A) of this section shall be filed with the Secretary of State's office.

(f)(1) If a vacancy occurs on the commission, the Governor shall appoint a commissioner to fill the vacancy.

(2) If the vacant position is one (1) that was filled by a candidate nominated by:

(A) The Arkansas Bar Association, the Arkansas Bar Association shall nominate three (3) individuals who are licensed to practice law in this state;

(B) The majority of the Supreme Court, the majority of the Supreme Court shall nominate three (3) individuals who are:

(i) Licensed to practice law in this state; and

(ii) Certified as a certified public accountant in this state; and

(C) The Arkansas Society of Certified Public Accountants, the Arkansas Society of Certified Public Accountants shall nominate three (3) individuals who are certified as a certified public accountant in this state.

(g)(1) The Governor may remove a commissioner for:

(A) Neglect of duty;

(B) Inability to perform duties; or

(C) Malfeasance in office.

(2) The Governor shall provide notice and an opportunity to be heard before removing a commissioner.

(h) A commissioner shall conduct himself or herself in an impartial manner and may withdraw from a hearing under this subchapter at any time if the commissioner deems himself or herself disqualified from performing his or her duties in an impartial manner.

(i)(1) Except as provided in subdivision (i)(2) of this section, a commissioner shall not:

(A) Engage in a business or be employed outside of his or her position as commissioner; or

(B) Hold office or a position of profit in this state or a political subdivision of this state, another state, or the United States of America.

(2) A commissioner may own an interest in a business entity and earn income from incidental teaching and scholarly activities, unless owning the interest or earning income from the incidental teaching and scholarly activities conflicts with his or her duties as an impartial commissioner under this subchapter.

(3) A commissioner shall withdraw from hearing a matter if he or she is related to the taxpayer or owns an interest in the business of the taxpayer.

(j) If all of the commissioners have withdrawn from hearing a matter under this section, the Governor shall appoint a special master to act as a commissioner in the matter.

History. Acts 2021, No. 586, § 1.

26-18-1107. Qualifications of commissioners.

(a) Each commissioner of the Tax Appeals Commission shall:

(1) Be a qualified elector of the State of Arkansas;

(2) Be either licensed to practice law in the state or certified as a certified public accountant in the state; and

(3) Possess substantial knowledge of Arkansas tax law.

(b) In addition to meeting the requirements of subsection (a) of this section, the Chief Commissioner of the Tax Appeals Commission shall:

(1) Be licensed to practice law in the state;

(2) Have been engaged in the private practice of law or employed in the private sector, or both, for at least five (5) of the immediately preceding ten (10) years before the chief commissioner's first appointment to the commission; and

(3) Be licensed as a certified public accountant in the state.

History. Acts 2021, No. 586, § 1.

26-18-1108. Location of the Tax Appeals Commission — On-site observation.

(a) The principal office of the Tax Appeals Commission shall be located in:

(1) Little Rock, Arkansas; and

(2) A building that is separate from any building in which a division of the Department of Finance and Administration is located.

(b) To provide taxpayers a reasonable opportunity to appear before the commission, the commission may conduct its hearings at:

(1) Its principal office; and

(2) Buildings or facilities, or both, leased or owned by state or local public agencies or entities within the state.

(c)(1) The commission may contract only with state and local public agencies or entities in the State of Arkansas to arrange for hearing rooms, chambers, offices, or other appropriate facilities for the commission's principal office in Little Rock and for hearings not held at the commission's principal office.

(2) The limitation stated in subdivision (c)(1) of this section does not apply to teleconferencing, videoconferencing, or similar electronic means that may allow for remote participation in commission proceedings.

(d) With the consent of the taxpayer and with all parties invited to observe, the commission may conduct on-site observation of tangible personal property, real property, and activities that are relevant to a controversy.

History. Acts 2021, No. 586, § 1.

26-18-1109. Employees.

(a) The Tax Appeals Commission:

(1) May employ a clerk, an assistant, and other employees as necessary to carry out the duties of the commission; and

(2) Shall employ:

(A)(i) A staff attorney.

(ii) The duties of the staff attorney shall include without limitation assisting the commissioners with drafting decisions; and

(B) An accountant who has experience in tax issues related to manufacturing and business.

(b) An employee of the commission shall not act as an attorney, a representative, or an accountant for a taxpayer in a matter involving a tax imposed or levied under state law by the Department of Finance and Administration or by any other state or local public agency.

History. Acts 2021, No. 586, § 1.

26-18-1110. Jurisdiction.

(a) The Tax Appeals Commission has administrative jurisdiction to:

(1) Except as otherwise provided in this section, hear disputes involving all state taxes administered by the Secretary of the Department of Finance and Administration;

(2) Hear a matter properly before the commission regardless of whether the taxpayer has paid to the Department of Finance and Administration some or all of the disputed tax or other amounts before or during the pendency of proceedings before the commission;

(3) Consistent with a decision issued by the commission, compel the secretary to:

(A) Issue a final assessment;

(B) Issue a refund;

(C) Reduce, set aside, alter, change, or remedy an action by the department that is subject to appeal, if appropriate under state law; or

(D) Take other appropriate action; and

(4)(A) Except as provided in subdivision (a)(4)(B) of this section, extend a deadline provided under this subchapter.

(B) The commission shall not extend the deadline for:

(i) A taxpayer to file a petition under § 26-18-1113; or

(ii) The commission to issue a decision, except as otherwise provided under § 26-18-1116(b).

(b) The commission does not have jurisdiction to:

(1) Hear disputes involving taxes that are excepted from the Arkansas Tax Procedure Act under § 26-18-102;

(2) Decide questions regarding the constitutionality of the application of statutes to a taxpayer or the constitutionality of rules promulgated by the department;

(3) Hear a claim for protection against enforcement of an illegal exaction under Arkansas Constitution, Article 16, § 13;

(4) Hear or decide claims for which the Office of Hearings and Appeals has issued an administrative decision; or

(5) Hear or decide a claim that is the subject of pending litigation.

(c) Upon the creation of the commission:

(1) The Office of Hearings and Appeals shall hear a proceeding resulting from an action or decision by the secretary, including without

limitation the issuance of a proposed assessment, a refund claim denial, or any other matter brought by a taxpayer, that was issued before January 1, 2023;

(2) The commission shall hear a proceeding resulting from an action or decision by the secretary, including without limitation the issuance of a proposed assessment, a refund claim denial, or any other matter brought by a taxpayer, that was issued on or after January 1, 2023; and

(3) A taxpayer that has a matter pending before the Office of Hearings and Appeals for which a hearing or prehearing has not been held may elect to have the taxpayer's matter transferred to the commission.

History. Acts 2021, No. 586, § 1.

26-18-1111. Settlement of tax disputes.

(a) A taxpayer and the Department of Finance and Administration may settle or compromise controversies at any time under § 26-18-705.

(b) If a matter is settled after a petition has been filed with the Tax Appeals Commission under this subchapter, the parties shall notify the commission so that the matter is withdrawn from consideration by the commission.

History. Acts 2021, No. 586, § 1.

26-18-1112. Service of process.

(a) Mailing by first class mail to any of the following constitutes service on the other party under this subchapter:

(1) The address of the taxpayer given on the taxpayer's petition, if the taxpayer does not have a representative of record;

(2) The address of the taxpayer's representative of record; or

(3) The address designated by the Department of Finance and Administration as the proper place of service on the department.

(b) The Tax Appeals Commission may:

(1)(A) Prescribe other methods of service of process.

(B) Any additional methods of service of process prescribed under subdivision (b)(1)(A) of this section shall be prescribed by rule;

(2) Establish methods of electronic filing and service of process; and

(3) Order that notice be given to additional persons.

History. Acts 2021, No. 586, § 1.

26-18-1113. Pleadings.

(a)(1) A taxpayer may commence an action under this subchapter by filing a petition with the Tax Appeals Commission protesting an action or decision by the Secretary of the Department of Finance and Administration, including without limitation the issuance of a proposed

assessment under § 26-18-403 or a refund claim denial under §§ 26-18-507 and 26-36-315.

(2) The commission shall not impose a filing fee for petitions filed with the commission.

(b)(1) A petition under subsection (a) of this section shall:

(A) Be filed with the commission no later than ninety (90) days from the date the Department of Finance and Administration issues a proposed assessment or refund claim denial or takes other action or proposed action that the taxpayer is protesting; and

(B) Contain:

(i) Facts sufficiently clear to identify the taxpayer and the taxpayer's reasons for opposing the proposed assessment, denial of a claim for refund, or other action of the secretary; and

(ii) The specific items at issue.

(2) The commission shall notify and serve a copy of the petition on the department within fifteen (15) days of receipt of the petition by the commission.

(c)(1) The department shall file an answer to a petition filed under this section within sixty (60) days of receipt of the notice from the commission under subdivision (b)(2) of this section.

(2)(A) The department shall serve a copy of the answer on the taxpayer's representative, or, if the taxpayer is not represented, on the taxpayer directly.

(B) An attorney's certification that the attorney sent the pleading by a means of service authorized under § 26-18-1112 is sufficient proof of service under subdivision (c)(2)(A) of this section.

(d)(1) A taxpayer may:

(A) File a reply to an answer filed under subsection (c) of this section within thirty (30) days of the date the answer was served on the taxpayer or the authorized representative of the taxpayer; or

(B) Move for default judgment if no answer was filed.

(2) The taxpayer shall:

(A) Serve a copy of a reply filed under subdivision (d)(1) of this section on the authorized representative of the department; and

(B)(i) File proof of service of the reply filed under subdivision (d)(1) of this section with the reply.

(ii) A certification by the taxpayer or the authorized representative of the taxpayer stating that he or she sent the pleading by a means of service authorized under § 26-18-1112 is sufficient proof of service under subdivision (d)(2)(B)(i) of this section.

(e)(1) Within thirty (30) days after a reply has been filed or the deadline to file a reply has passed, the commission shall schedule a hearing to be held within ninety (90) days of the date the reply was filed or the deadline to file a reply passed.

(2)(A) Before scheduling a hearing under this section, the Chief Commissioner of the Tax Appeals Commission shall assign the proceeding to one (1) commissioner or to all available commissioners sitting en banc, depending on the nature and significance of the proceeding.

(B) There is a presumption that proceedings:

(i) For which the net amount of the tax deficiencies and claimed refunds in controversy does not exceed twenty-five thousand dollars (\$25,000), exclusive of interest and penalties, should be assigned to one (1) commissioner;

(ii) Identified in subsection (g) of this section should be assigned to one (1) commissioner; and

(iii) For which the net amount of the tax deficiencies and claimed refunds in controversy exceeds two hundred fifty thousand dollars (\$250,000), exclusive of interest and penalties, should be assigned to all commissioners sitting en banc.

(3) Before a hearing is held, the chief commissioner may reassign the proceeding to one (1) commissioner or to all commissioners sitting en banc.

(f)(1) Either party may amend a pleading one (1) time without leave at any time before the period for responding to the pleading expires.

(2) After the period for responding to a pleading expires, a pleading may be amended only with the written consent of the adverse party or with the permission of the commission.

(3) The commission shall allow a party to file an answer or reply, or both, to an amended pleading, and the commission shall specify a deadline for filing the answer or reply, or both.

(4) A taxpayer shall not amend the taxpayer's petition after the expiration of the time for filing a petition if the amended petition would have the effect of conferring jurisdiction over a matter that would otherwise not come within the jurisdiction of the commission because of the statute of limitations or otherwise.

(5) The commission shall provide notice of an amended pleading to the adverse party.

(g) Except as provided in subdivision (e)(2)(B)(ii) of this section, this section does not apply to the following administrative hearings before the commission for which an expedited process is available:

(1) A jeopardy assessment by the secretary under § 26-18-402;

(2) A cancellation or refusal to issue, extend, or reinstate a license, permit, or registration under § 26-18-601;

(3) A decision by the secretary to close a noncompliant taxpayer's business under §§ 26-18-1001 and 26-18-1002;

(4) A joint refund offset under § 26-18-507 or § 26-36-315;

(5) A demand for an additional bond under § 26-55-224, § 26-56-204, or § 26-62-204;

(6) The revocation or cancellation of a license under § 26-55-231, § 26-56-311, § 26-57-413, or § 26-57-419;

(7) The confiscation of equipment under § 26-55-247; or

(8) The seizure or forfeiture of a vending device under § 26-57-1212.

History. Acts 2021, No. 586, § 1.

26-18-1114. Stipulation.

The parties to a proceeding shall make every reasonable effort to stipulate all relevant and nonprivileged facts to the fullest extent to which a complete or qualified agreement can or fairly should be reached.

History. Acts 2021, No. 586, § 1.

26-18-1115. Hearings.

(a) A hearing under this subchapter:

(1) Shall be tried before one (1) or more of the appointed commissioners of the Tax Appeals Commission, as determined by the Chief Commissioner of the Tax Appeals Commission; and

(2) Is not subject to the Arkansas Administrative Procedure Act, § 25-15-201 et seq.

(b) Except as otherwise stated in this subchapter, the commission shall:

- (1) Receive evidence;
- (2) Conduct hearings; and
- (3) Render decisions.

(c)(1) Hearings of the commission under this subchapter shall be:

(A) Conducted in accordance with the rules of practice and procedure promulgated by the commission under the Arkansas Administrative Procedure Act, § 25-15-201 et seq.; and

(B) Confidential and closed to the public.

(2) The following are exempt from disclosure under the Freedom of Information Act of 1967, § 25-19-101 et seq.:

(A) Tax returns, audit reports, information pertaining to any tax return or audit report, and other taxpayer information provided to the commission in relation to a dispute involving state taxes administered by the Secretary of the Department of Finance and Administration;

(B) Hearings held by the commission under this section; and

(C) Files and records of the commission pertaining to an action filed by a taxpayer or the secretary under:

- (i) This subchapter; or
- (ii) The Arkansas Tax Procedure Act, § 26-18-101 et seq.

(d)(1) The rules of evidence applicable to civil cases in state courts do not apply to hearings before the commission under this subchapter.

(2) A commissioner of the commission shall:

(A) Admit relevant evidence, including hearsay, if it is probative of a material fact in controversy; and

(B) Exclude irrelevant and repetitious evidence.

(e) The rules of privilege recognized by state law apply to testimony provided in hearings before the commission under this subchapter.

(f)(1) Testimony in a hearing under this subchapter shall be given on oath or affirmation.

(2) A commissioner may designate one (1) or more of the employees of the commission to administer oaths.

(g) Either party may elect to hire a court reporter to be present and record a hearing before the commission.

(h) The burden of proof stated in § 26-18-313 shall apply to all matters before the commission.

(i)(1) For a proceeding assigned to one (1) commissioner, that commissioner shall be the presiding commissioner at the hearing.

(2) For a proceeding assigned to the commission en banc, the chief commissioner or the commissioner designated by the chief commissioner shall be the presiding commissioner at a hearing.

(j) Except in a case involving the denial of a claim for refund, the taxpayer shall have the right to have the taxpayer's case heard before paying any of the amounts asserted as due by the Department of Finance and Administration.

(k)(1) Except as provided in subdivision (k)(2) of this section, the commission shall schedule and hold a hearing as provided in § 26-18-1113.

(2) The commission shall schedule and hold a hearing:

(A) Under § 26-18-402, within five (5) business days after a taxpayer has filed a petition with the commission;

(B) Under § 26-18-601(b), within three (3) business days after a taxpayer has filed a petition with the commission;

(C) Under § 26-18-601(c), within twenty (20) calendar days after a taxpayer has filed a petition with the commission;

(D) Under § 26-18-1002, within fourteen (14) calendar days after a taxpayer has filed a petition with the commission;

(E) Under § 26-18-507(e)(1)(B)(ii) or § 26-36-315(c), within twenty (20) calendar days after a taxpayer has filed a petition with the commission;

(F) Under § 26-55-224, § 26-56-204, or § 26-62-204, within twenty (20) calendar days after a taxpayer has filed a petition with the commission;

(G) Under § 26-55-231, § 26-56-311, § 26-57-413, or § 26-57-419, within twenty (20) calendar days after a taxpayer has filed a petition with the commission;

(H) Under § 26-55-247, within five (5) business days after a taxpayer has filed a petition with the commission; and

(I) Under § 26-57-1212, within five (5) business days after a taxpayer has filed a petition with the commission.

(3) The commission shall provide notice of an expedited hearing under subdivision (k)(2) of this section to the department at least two (2) business days before the hearing.

(l)(1) A taxpayer may elect to have the taxpayer's petition heard:

(A) In person;

(B) By teleconference;

(C) By videoconference;

(D) By any combination of in-person, teleconferencing, or videoconferencing means; or

(E) Solely upon the documents filed with the commission.

(2) The taxpayer shall make an election under subdivision (1)(1) of this section in the taxpayer's initial petition.

(3) If the taxpayer fails to make an election under subdivision (1)(1) of this section in the taxpayer's initial petition, the petition shall be set for an in-person hearing in Little Rock.

(4) The taxpayer may amend an election under this subsection:

(A) Up to the date the taxpayer's reply is filed or due to be filed; or

(B) With the consent of the commission after notice to the department and an opportunity to be heard.

(5) The department may elect to appear by teleconference or video-conference for a hearing.

(6) The commission may require a hearing by a means other than the means elected by the taxpayer for good cause or when it is in the interest of justice.

History. Acts 2021, No. 586, § 1.

26-18-1116. Decisions.

(a)(1)(A) The Tax Appeals Commission shall render its decisions under this subchapter in writing.

(B) A decision of the commission under this section shall:

(i) Include without limitation concise findings of fact and conclusions of law; and

(ii) Grant relief, invoke remedies, and issue orders as the commission deems appropriate to carry out the commission's decision.

(2) For a proceeding assigned to one (1) commissioner, that commissioner shall prepare the written decision.

(3) For a proceeding assigned to the commission en banc, the Chief Commissioner of the Tax Appeals Commission or other commissioner designated by the chief commissioner shall prepare a written decision that reflects the view of the majority of the commissioners participating in the case.

(4) A decision issued under this section shall be published under § 26-18-1119 and shall be served upon the parties by the commission.

(b)(1)(A) Except as provided in subdivision (b)(1)(B) of this section, a decision of the commission under this section shall be issued no later than ninety (90) days after the submission of the last pleading or brief filed or the completion of the hearing, whichever is later.

(B) The commission shall issue a decision:

(i) Within five (5) business days after a hearing is concluded under § 26-18-402;

(ii) Within three (3) business days after a hearing is concluded under § 26-18-601(b);

(iii) Within five (5) business days after a hearing is concluded under § 26-18-1002;

(iv) Within twenty (20) calendar days after a hearing is concluded under § 26-18-507(e)(1)(B)(ii), § 26-18-601(c), or § 26-36-315(c);

(v) Within twenty (20) calendar days after a hearing is concluded under § 26-55-224, § 26-56-204, or § 26-62-204;

(vi) Within twenty (20) calendar days after a hearing is concluded under § 26-55-231, § 26-56-311, § 26-57-413, or § 26-57-419;

(vii) Within five (5) business days after a hearing is concluded under § 26-55-247; and

(viii) Within five (5) business days after a hearing is concluded under § 26-57-1212.

(2)(A) Except as provided in subdivision (b)(2)(B) of this section, the commission may extend the period to render a decision under this section for a reasonable additional amount of time for good cause, which shall be documented in a letter mailed to the parties.

(B) The commission shall not extend the period to render a decision under subdivision (b)(1)(B) of this section with regard to a hearing held under § 26-18-1115(k)(2).

(c)(1) A decision of the commission has the same effect and shall be enforced in the same manner as a decision of a circuit court of the state, unless judicial review of the decision is pending.

(2) Unless the Secretary of the Department of Finance and Administration files with the commission a notice of intent to seek judicial review, the secretary shall comply with and implement a decision of the commission within thirty (30) days of service of the decision on the Department of Finance and Administration.

(d)(1) The interpretation of a taxing statute adopted by the commission in a proceeding en banc shall be followed by the commission in subsequent cases involving the same statute.

(2) The commission's application of a statute to the facts of a case in a proceeding en banc shall be followed by the commission in subsequent cases involving similar facts.

(3) The commission is not required to follow a prior interpretation or application of law by the commission if:

(A) The interpretation or application conflicts with an interpretation or application of Arkansas law by a federal court or Arkansas state court; or

(B) The prior decision of the commission was overturned on appeal.

History. Acts 2021, No. 586, § 1.

26-18-1117. Judicial relief.

(a) A taxpayer may seek judicial relief from a decision of the Tax Appeals Commission by following the procedures stated in the Arkansas Tax Procedure Act, § 26-18-101 et seq.

(b)(1) The Department of Finance and Administration may seek judicial relief from a decision of the commission by filing suit against the taxpayer in Pulaski County Circuit Court or in the circuit court of the county in which the taxpayer resides or has its principal place of business in the state.

(2) A taxpayer may remove a suit filed by the department to the circuit court of the county in which the taxpayer resides or has its principal place of business in the state.

(3) A matter subject to judicial relief under this section shall be tried de novo.

(c) An appeal will lie from the circuit court to the Supreme Court, as in other cases provided by law.

(d) The Arkansas Rules of Civil Procedure and § 16-56-126 concerning nonsuit and commencement of new actions apply to appeals under this section.

History. Acts 2021, No. 586, § 1.

26-18-1118. Representation.

(a)(1) A taxpayer may be represented at a hearing pro se or by an authorized representative who has provided a completed power of attorney form to the Tax Appeals Commission in the manner prescribed by the commission.

(2) A completed power of attorney form shall:

(A) Be attached to the taxpayer's petition; or

(B) Accompany the authorized representative's entry of appearance if the taxpayer's authorized representative files an entry of appearance after the petition has been filed.

(3) If the taxpayer fails to attach a power of attorney to the petition, the commission shall allow the taxpayer thirty (30) calendar days to file the required power of attorney.

(4) Absent information indicating that the taxpayer has an authorized representative, the Department of Finance and Administration may communicate directly with the taxpayer.

(b) The department shall be represented by an authorized representative at a hearing.

History. Acts 2021, No. 586, § 1.

26-18-1119. Publication of decisions.

(a) The Tax Appeals Commission shall index and publish a decision under this subchapter in the print or electronic form that the commission deems best adapted for public convenience.

(b) All personally identifying taxpayer information shall be redacted before the publication of a decision under this subchapter.

(c) The publication of a decision under this subchapter shall be made permanently available and shall be an official report of the commission.

History. Acts 2021, No. 586, § 1.

26-18-1120. Rules.

The Tax Appeals Commission shall promulgate rules and forms to:

- (1) Carry out the intent and purpose of this subchapter; and
- (2) Implement the duties assigned to the commission, including without limitation rules:

(A) Governing pleadings and service of process requirements to commence a hearing under this subchapter and the practice and procedure rules of the commission;

(B) To provide for expedited proceedings;

(C) To establish guidelines for the redaction of personally identifying taxpayer information in published decisions; and

(D) To establish a procedure for petitions and hearings under:

(i) Section 26-18-402;

(ii) Section 26-18-601(b) and (c);

(iii) Section 26-18-1002;

(iv) Section 26-36-315;

(v) Section 26-55-219;

(vi) Section 26-55-224;

(vii) Section 26-55-231;

(viii) Section 26-55-247;

(ix) Section 26-56-204;

(x) Section 26-56-311;

(xi) Section 26-57-413;

(xii) Section 26-57-419;

(xiii) Section 26-57-1212; and

(xiv) Section 26-62-204.

History. Acts 2021, No. 586, § 1.

SUBTITLE 3. ADMINISTRATION OF LOCAL TAXES**CHAPTER 24****ARKANSAS PUBLIC SERVICE COMMISSION****SECTION.**

26-24-121. Annual report.

26-24-121. Annual report.

(a)(1) By June 15 of each year, the Assessment Coordination Division shall send the Governor and the Legislative Council a written report, which shall:

(A) Be in tabular form;

(B) Be organized by county and category;

(C) Show all the taxable property in the state, including without limitation the assessed value and other ad valorem information; and

(D) Disclose and describe:

(i) Any new guidelines the division has issued to educate or guide county assessors regarding the assessment of property; and

(ii) Any updates or changes to a division guideline that is at least ten (10) years old.

(2) The written report required under subdivision (a)(1) of this section may include suggestions by the division for changes in law that the division recommends for the consideration of the General Assembly.

(b) A guideline required to be included in the written report required under subdivision (a)(1) of this section shall not take effect before the division reports the guideline to the Legislative Council under subdivision (a)(1)(D) of this section.

History. Acts 1927, No. 129, § 12; Pope's Dig., § 2038; A.S.A. 1947, § 84-103; Acts 2021, No. 823, § 2.

A.C.R.C. Notes. Acts 2021, No. 823, § 1, provided: "Legislative findings and intent.

"(a) The General Assembly finds that:

"(1) The Assessment Coordination Division of the Department of Finance and Administration publishes guidelines and valuation tables to aid and guide county assessors in their valuation of certain types of real and personal property;

"(2) In the performance of its duty to oversee agency action, the General Assembly should be advised of additions to or revisions of guidelines published by the division.

"(b) The intent of this act is not to assess property or raise ad valorem taxes on real or personal property but to merely codify the division's reporting requirements to the General Assembly."

Amendments. The 2021 amendment substituted "Annual" for "Biennial" in the section heading; and rewrote the section.

CHAPTER 26

ASSESSMENT OF TAXES

SUBCHAPTER.

3. ADMINISTRATION GENERALLY.

7. LISTS — ABSTRACTS — BOOKS — RECORDS.

11. ASSESSMENT OF PROPERTY GENERALLY.

14. TANGIBLE PERSONAL PROPERTY.

16. UTILITIES AND CARRIERS GENERALLY.

SUBCHAPTER 3 — ADMINISTRATION GENERALLY

SECTION.

26-26-304. Ratio of assessed value to market value in the assessment year that reappraised values are placed on the assessment rolls.

26-26-304. Ratio of assessed value to market value in the assessment year that reappraised values are placed on the assessment rolls.

(a)(1)(A) The Assessment Coordination Division shall prepare a ratio study for the purpose of determining the average ratio of full assessed value to the true and full market or actual value of real property, by

classifications, in each of the several counties and school districts of the state in the assessment year that reappraised values are placed on the assessment rolls.

(B)(i) This ratio study shall be based on sales-to-assessment ratios, supplemented with appraisal to assessment ratios as required to meet generally accepted statistical techniques.

(ii) The study shall determine the actual assessment level of real estate as required by law, including the value of agricultural lands that qualify for use and productivity valuation, by classification such as residential, commercial and industrial, agricultural, and other classifications.

(iii) No later than January 31 of every year, all counties shall report, by electronic transmission, sales data to the division. The sales data shall include:

(a) A listing of each property transferred under a warranty deed or special warranty deed;

(b) The consideration paid;

(c) The date of the sale;

(d) The parcel number;

(e) The legal description;

(f) The names of the grantor and grantee;

(g) The most recent assessed value of the property; and

(h) Other data prescribed by the division.

(iv)(a) The sales-to-assessment ratio study shall include sales data for the calendar year previous to the assessment year.

(b) In those instances when the number of appropriate sales from the calendar year previous to the assessment year is insufficient to present a statistically sound sample, the sales-to-assessment ratio study may include sales data for the three (3) calendar years previous to the assessment year.

(c) The division shall report the preliminary sales-to-assessment ratio studies to the county assessor and county judge on or before March 1 of the assessment year.

(2) The division shall supplement the sales-to-assessment ratio with appraisals as required and report the original combined real property ratios to the county assessor and county judge.

(3) In conducting the studies, the division shall use generally accepted valuation procedures, statistical compilation, and analysis techniques found in the International Association of Assessing Officers' Standard on Ratio Studies.

(b)(1)(A) An annual ratio study for the purpose of determining the average ratio of assessed value to the true and full market or actual value of personal property in each of the several counties of the state shall also be made.

(B) This ratio study of personal property shall be based upon a physical examination of the records of each county assessor's office to determine the degree of compliance with the criteria as established by the *Arkansas Commercial Personal Property Appraisal Manual*.

(2) The personal property original ratio study shall be certified by the division to the county judge and county assessor of each county by September 15 of each year.

(c)(1) On or before August 1 of each year the county assessor shall report to the division by total of items and value the total assessment of the county as made by the county assessor.

(2)(A) The preparer of the tax books shall file a report with the division showing the percent of true market or actual value at which the county equalization board has equalized the assessed values of the property of the county under the county equalization board's jurisdiction for the year, together with an abstract of the adjusted assessment by total of items and value.

(B) The report and abstract shall be filed each year no later than thirty (30) days after final adjournment of the county equalization board.

(d)(1) Whenever any county assessor or deputy county assessor attends a school or instructional meeting pursuant to the request of the division, he or she shall be entitled to reimbursement for his or her travel expenses, which shall be paid by the division upon filing of a proper claim for the travel expenses.

(2) The county assessor and his or her deputies shall also be entitled to reimbursement for travel expenses within the county in performance of their duties as required by this section, which shall be paid by the county.

(3)(A) All reimbursements for travel expenses shall be limited to the actual and necessary expenses incurred.

(B) The total expenses incurred, other than for transportation, for travel within the county shall not exceed one-half ($\frac{1}{2}$) the daily maximum amount authorized for travel of state employees within the state, and, for travel outside the county, the amount shall not exceed the daily maximum amount authorized for travel of state employees within the state, in accordance with state travel laws and rules.

(C) The transportation expenses shall not exceed the actual amount paid, except that the reimbursement for use of a private automobile shall be at the same rate per mile as is allowed in the reimbursement of state employees under the state travel laws and rules for transportation expenses for each mile actually and necessarily traveled by the automobile, within and without the county.

(e)(1) In addition to the other provisions of this section, whenever the September 15 ratio for the classifications of market value real estate, business personal property, auto and other personal property, or agricultural and timber falls below eighteen percent (18%) or above twenty-two percent (22%) of full fair market value, the county shall be deemed to have failed the ratio study and shall be subject to the corrective actions outlined in subsection (f) of this section.

(2) Furthermore, when a ratio study determines that the county does not meet the ratio standards found in the International Association of Assessing Officers' Standard on Ratio Studies, the county shall be

deemed to have failed the ratio study and shall be subject to the corrective actions outlined in subsection (f) of this section.

(3) The division may conduct a county ratio study, in full or in part, at any time that the division determines that a county has engaged in inappropriate assessment roll changes or manipulations.

(f)(1)(A) When a county has failed the ratio study, the division shall direct and supervise a detailed market value and assessment value analysis of the area or class indicating a deficiency in order to determine the political subdivisions and neighborhoods or appraisal methodology, or both, in need of assessment value adjustments.

(B) When appropriate assessment value adjustments are determined for the county, the county shall place the assessment value adjustments on the assessment rolls of the county in a manner that is most equitable for the taxpayers of the county for taxation according to the laws of this state.

(C)(i) The division and counties employing contracted appraisal services shall bear no additional expense for correcting a failed ratio study if the failure is found to be the fault of the contractor.

(ii) The contractor shall bear the cost of these additional services.

(2)(A) In the case in which a county fails to place the assessment value adjustments on the assessment rolls of the county as directed by the division, the division may notify the disbursing agents of the State of Arkansas to withhold the funds accruing to the county from all sources until the time that the adjustments are made.

(B) If the adjustments are not made for one (1) year, the withheld funds shall not be reimbursed to the county and shall be deposited into the State General Government Fund, and withholding shall begin for the following year.

(g)(1) If a county is aggrieved at the findings of the division, the county may appeal the findings of the division to the Director of the Assessment Coordination Division.

(2) The officials of each unit of government affected shall have the right to examine the records of the division that pertain to the ratio findings or value adjustment order for that unit of government.

History. Acts 1955, No. 153, §§ 9, 12; 2005, No. 73, § 1; 2005, No. 1772, §§ 1, 2; 1957, No. 304, § 1; 1959, No. 31, § 1; 2019, No. 315, § 2953; 2021, No. 278, § 1. 1959, No. 244, § 1; 1969, No. 60, § 1; **Amendments.** The 2021 amendment substituted "preparer of the tax books" for A.S.A. 1947, §§ 84-477, 84-477n; Acts 1987, No. 838, § 1; 1997, No. 440, § 2(g); "county clerk" in (c)(2)(A). 1999, No. 1079, § 1; 2001, No. 1131, § 1;

SUBCHAPTER 7 — LISTS — ABSTRACTS — BOOKS — RECORDS

SECTION.

26-26-716. Assessment reports filed with
county clerk.

26-26-716. Assessment reports filed with county clerk.

(a)(1)(A) Each year, the county assessor shall, on or before the third Monday in August, file with the county clerk his or her report of assessment of all real property of the county situated within the boundaries of any city or town and additions thereto which have been regularly platted into lots and blocks.

(B) Each year, the county assessor shall, on or before the third Monday in August, file with the county clerk his or her report of assessment of all real property of the county situated outside the boundaries of any city or town and additions thereto which have been regularly platted into lots and blocks.

(2) On or before July 31, the county assessor shall deliver the personal property assessment report or roll book to the county clerk, to be arranged in alphabetical order according to school districts and showing separately in alphabetical order the persons residing outside of incorporated cities and towns and of persons who are residents of incorporated cities and towns of the same school district.

(3) In addition to the other requirements of this section, the county assessors shall be required to list poll and personal property owners to the respective political township and ward in which they reside at the time of the assessment.

(b)(1) These reports shall be filed in books or records of the kind and character furnished to the county assessor by the county clerk for that purpose, unless otherwise directed by the Arkansas Public Service Commission, and each report shall show each item of property by totals in number and value.

(2) The county clerk shall not receive these reports unless they are in a neat and legible manner, and to each of which the county assessor shall have attached his or her oath in the following words:

“I,, Assessor for County, State of Arkansas, do solemnly swear that I have made diligent efforts to ascertain all the taxable property and persons subject to taxation in said county; that so far as I have been able to ascertain, the same is correctly set forth and described in the foregoing report, and that the property therein mentioned is not appraised at less than its true market or actual value, or authorized percentage thereof.

That this record or book is one of records or books constituting the report of assessment or appraisal of all property and persons of the county which I am by law required to assess or appraise for the year 20...., so help me God.

Sworn to and subscribed before me this day of, 20.....,
Clerk County.”

(3) An electronic reproduction of a report, list, or roll book kept in accordance with § 13-4-301 is sufficient under this section.

History. Acts 1883, No. 114, § 65, p. § 1; A.S.A. 1947, §§ 84-447, 84-448; Acts 199; 1887, No. 92, § 30, p. 143; C. & M. 1987, No. 621, § 3; 2021, No. 278, § 2. Dig., § 9915; Acts 1929, No. 172, § 18; **Amendments.** The 2021 amendment Pope's Dig., § 13676; Acts 1935, No. 152, added (b)(3).

SUBCHAPTER 11 — ASSESSMENT OF PROPERTY GENERALLY

SECTION.

26-26-1110. Mineral rights — Definitions.
[Effective January 1,
2022.]

SECTION.

26-26-1114. Assessment of personal property taxes by mail or by telephone.

Effective Dates. Acts 2021, No. 668, § 2: effective for assessment years beginning on or after Jan. 1, 2022.

26-26-1101. Time to assess realty.

CASE NOTES

Authority.

County assessor, not appellant as Director of the Assessment Coordination Division, was charged with the duty to appraise and assess appellees' working interests, and because the department guidelines were discretionary, appellant did not engage in illegal, unconstitutional,

or ultra vires conduct in issuing the guidelines to the assessor; thus, the circuit court erred in finding appellant was not immune from suit for purposes of Ark. Const., Art. 5, § 20. *Chaney v. Union Producing, LLC*, 2020 Ark. 388, 611 S.W.3d 482 (2020).

26-26-1110. Mineral rights — Definitions. [Effective January 1, 2022.]

(a)(1) As used in this section:

(A) "Oil well" means a producing unit well or well that produces:

(i) Only liquid hydrocarbons;

(ii) Liquid hydrocarbons associated with the production of gas; or

(iii) Gas associated with the production of liquid hydrocarbons;

and

(B) "Production equipment" means all piping and other equipment of an oil well from the bottom of the casing to and including the sales valve at the tank battery.

(2) The county assessor shall assess all producing mineral interests in the county.

(3)(A) The county assessor shall assess the mineral interests in the land separate from the fee simple interest in the land when the:

(i) Mineral interests in the land are held by one (1) or more persons that are different from the person or persons holding the fee simple interest; and

(ii) County assessor is advised of the separate holdings by the recording of a deed in the county recorder's office.

(B) When subdivision (a)(3)(A) of this section applies, a sale of the mineral interests for nonpayment of taxes shall not affect the title to the land itself, nor shall a sale of the land for nonpayment of taxes affect the title to the mineral interests.

(4)(A) The county assessor shall assess all production equipment as real property.

(B)(i) Except as stated under subdivision (a)(4)(B)(ii) of this section, when assessing the value of production equipment, the county assessor shall assess the production equipment at a value of one dollar (\$1.00) per foot.

(ii) Any portion of the casing in a well that has been rendered inoperable for producing oil or gas by a cement or mechanical plug shall not be subject to taxation.

(5) If an oil well reported production in a prior year and reports an annual increase in average daily production, the annual increase in average daily production shall be assessed as newly discovered property only if the annual increase in average daily production is solely attributable to new production from a geologic zone or horizon that was not produced in a prior year from the existing oil well.

(6)(A) In calculating the working interest-assessed value of an oil well, the county assessor shall apply a uniform expense allowance per barrel of oil produced without regard to the average daily production of the oil well.

(B) The expense allowance under subdivision (a)(6)(A) of this section shall be based as nearly as practicable on actual expenses per barrel of oil produced.

(7) In assessing the value of an oil well based on an income approach, the income shall be based on the actual average price per barrel of oil in Arkansas during the immediately preceding calendar year.

(8) All formulas, valuation tables, and guidance that are published or provided to the county assessors by the Assessment Coordination Division to be used in the valuation and appraisal of mineral rights for ad valorem tax purposes shall comply with the requirements of this section.

(b) When any mineral rights assessed as set out in subsection (a) of this section become forfeited on account of nonpayment of taxes, they shall, in all things, be certified to and redeemed in the same manner as is provided for the certification and redemption of real estate upon which taxes duly assessed have not been paid.

(c)(1) Because of the difficulty of ascertaining the value of a nonproducing mineral right and in order to ensure equal and uniform taxation throughout the state, a nonproducing mineral right has zero (0) value for the purpose of property tax assessment and is included in the value of the fee simple interest assessed.

(2) If the fee simple in the land and the nonproducing mineral right that has zero (0) value as determined under subdivision (c)(1) of this section are owned by different persons, there is no property tax due on the mineral right.

(3) For a nonproducing mineral right that has zero (0) value as determined under subdivision (c)(1) of this section, the mineral right owner may agree to a voluntary property tax assessment of the mineral right and pay a property tax according to rules established by the Assessment Coordination Division with the assistance of the Arkansas Assessors' Association.

(4) When a nonproducing mineral right begins producing minerals, the mineral right shall be assessed for tax purposes in accordance with rules established by the Assessment Coordination Division.

(d)(1)(A) If the Assessment Coordination Division determines that a county assessor has failed to assess mineral interests as required under this section, the Assessment Coordination Division shall notify the county assessor by certified mail with copies to the:

- (i) County equalization board;
- (ii) County judge;
- (iii) County quorum court; and
- (iv) Reappraisal contractor, if applicable.

(B) In addition, the notice may provide that state reappraisal reimbursement funds to the county may be withheld pending the outcome of a hearing if a hearing is requested by the county assessor within thirty (30) days from the date of the notice.

(2)(A) The county assessor may waive the right to a hearing and within thirty (30) days from the date of the notice agree to complete corrective action as required by the Assessment Coordination Division and return a signed and dated compliance verification form to the Assessment Coordination Division.

(B) Upon receipt of the signed and dated compliance verification form, the Assessment Coordination Division shall release any withheld state reappraisal reimbursement funds and resume regular payments.

(3) Termination of state reappraisal reimbursement funds may occur if the county assessor fails to:

(A) Either request a hearing or return the signed and dated compliance verification form within thirty (30) days from the date of the notice; or

(B) Complete the corrective action within the time provided in the compliance verification form.

(e)(1)(A) Except as otherwise provided in this subsection, if mineral rights are subject to a division order or declaration of interest, the division order or declaration of interest reflecting ownership interest as of January 1 of the assessment year shall be:

(i) In a common electronic workbook format established by the Assessment Coordination Division; and

(ii) Submitted electronically by the distributor of the proceeds derived from the sale of minerals produced from the subject ownership interest to the county assessor annually by March 31.

(B) A producer or operator of ten (10) or fewer producing wells is not required to submit a division order or declaration of interest in an electronic format but shall submit a division order or declaration of interest reflecting ownership interest that is in substantial compliance with the format established by the Assessment Coordination Division under subdivision (e)(1)(A) of this section.

(2)(A) A county assessor shall assess a penalty on a producer or operator equal to ten percent (10%) of the property taxes due on the mineral interests contained in a division order or declaration of interest that was not submitted as required under this subsection by April 15.

(B) A penalty assessed under this section shall be:

(i) Collected by the county collector in the same manner as other penalties related to property taxes; and

(ii) Paid into a late assessment fee fund established on the books of the county treasurer for the county assessor.

(3) A division order or declaration of interest submitted to a county assessor under this subsection is exempt from the Freedom of Information Act of 1967, § 25-19-101 et seq.

(4) A producer or operator that pays one hundred percent (100%) of the property taxes due on assessed mineral interests:

(A) Is not subject to the requirements of subdivision (e)(1) of this section; and

(B) Shall provide written notice of the producer's or operator's intent to submit a division order or declaration of interest under subdivision (e)(1) of this section that applies to the assessed mineral interests at least six (6) months before the division order or declaration of interest is submitted under subdivision (e)(1) of this section.

History. Acts 1897, No. 30, § 1, p. 38; C. & M. Dig., § 9856; Acts 1929, No. 221, § 1; Pope's Dig., § 13600; A.S.A. 1947, § 84-203; Acts 2009, No. 421, § 1; 2011, No. 867, §§ 1, 2; 2019, No. 538, § 1; 2021, No. 668, § 1.

Publisher's Notes. For text of section effective until January 1, 2022, see the bound volume.

Amendments. The 2021 amendment added (a)(1) and redesignated former (a)(1) and (2) as (a)(2) and (3); substituted "subdivision (a)(3)(A)" for "subdivision (a)(2)(A)" in (a)(3)(B); and added (a)(4) through (8).

Effective Dates. Acts 2021, No. 668, § 2: effective for assessment years beginning on or after Jan. 1, 2022.

26-26-1114. Assessment of personal property taxes by mail or by telephone.

(a) For any assessment of personal property taxes, a taxpayer may assess the personal property taxes by mail, by telephone, on any available county-owned or county-affiliated website, or in person.

(b)(1) The county assessor shall permit assessment of real and personal property of individuals by telephone without a signature verification under oath.

(2) The assessment by telephone shall not apply to business, commercial, and industrial real and personal property assessments.

(3)(A) The county assessor shall mail to individuals assessing personal property by telephone, within five (5) working days from the date of assessment by telephone, an assessment containing a certification, which shall be provided by the county collector, indicating whether all required personal property taxes have been paid.

(B) The county assessor shall provide, if requested, proof of assessment for each motor vehicle assessed and proof of said payment information appropriate for motor vehicle registration renewal by mail.

(c) The Director of the Assessment Coordination Division shall promulgate rules for the administration of this section. The forms and rules promulgated by the director shall apply to all counties in the state.

History. Acts 1989, No. 517, § 1; 1991, No. 291, § 1; 1993, No. 1261, § 1; 2019, No. 315, § 2957; 2021, No. 278, § 3.

Amendments. The 2021 amendment,

in (a), deleted “after December 31, 1993” preceding “a taxpayer may assess” and inserted “on any available county-owned or county-affiliated website”.

SUBCHAPTER 14 — TANGIBLE PERSONAL PROPERTY

SECTION.

26-26-1408. Time for assessment and payment.

Effective Dates. Acts 2021, No. 307, § 5: Mar. 9, 2021. Emergency clause provided: “It is found and determined by the General Assembly of the State of Arkansas that local governments have suffered a fiscal decline as a result of the coronavirus 2019 (COVID-19) pandemic; that the negative effect the coronavirus 2019 (COVID-19) pandemic has had on local governments’ revenue has impacted local governments’ ability to provide important services to maintain public peace and safety; and that this act is immediately necessary to allow county collectors to collect taxes earlier to assist local govern-

ments in obtaining the revenue necessary to continuing providing important services to maintain public peace and safety. Therefore, an emergency is declared to exist, and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto.”

26-26-1408. Time for assessment and payment.

(a)(1) A taxpayer shall annually assess his or her tangible personal property for ad valorem taxes during the period from January 1 through May 31.

(2)(A) Taxable tangible personal property of a new resident and a new business established between January 1 and May 31 and taxable tangible personal property acquired by a resident during the period from January 1 through May 31, except tangible personal property acquired during the period of May 2 through May 31, shall be assessable without delinquency within thirty (30) days following the date of its acquisition.

(B) All taxable tangible personal property assessable during this period shall be assessed according to its market value as of:

(i) January 1 of the year of the assessment; or

(ii) The date of acquisition if the tangible personal property was acquired during the period of January 2 through May 31 of the year of assessment.

(3) The ten percent (10%) penalty for delinquent assessment shall not apply to tangible personal property becoming eligible for assessment through May 31 if the tangible personal property is assessed on or before May 31, except that:

(A) If May 31 of an assessment year falls on a Saturday, Sunday, or postal holiday, then the last day to assess without incurring a penalty shall be the following business day; and

(B) Tangible personal property acquired during the period of May 2 through May 31 shall be assessable without penalty within thirty (30) days following the date of its acquisition.

(4)(A) Taxable tangible personal property of a person moving his or her residence from Arkansas, and taxable tangible personal property disposed of by a resident and a business, during the period between January 1 and May 31, if assessed for that year, shall be removed from the assessment rolls, and, if not assessed, shall not be deemed assessable for that year.

(B) Before removal of the tangible personal property from the assessment rolls, it shall be the responsibility of the property owner to provide the county assessor with notification, and, upon request from the county assessor, proof of the disposal.

(5) The tangible personal property referred to in subdivisions (a)(1)-(4) of this section shall not include the inventory of a commercial establishment because specific provisions for the assessment of the inventory of a commercial establishment is provided elsewhere in this Arkansas Code.

(6)(A) The county assessor may list, value, and assess tangible personal property for a period extending through July 31 of each year of assessment.

(B) Assessment of tangible personal property after July 31 shall be according to provision of existing law.

(b)(1) Except as provided in subdivision (b)(2) of this section, personal property taxes are payable each year between the first business day in March and October 15 inclusive.

(2) A taxpayer may pay personal property taxes before the first business day in March if the county collector exercises his or her authorization under § 26-35-501(a)(1)(B) to open the tax books before the first business day in March.

History. Acts 1981, No. 927, § 2; A.S.A. 1947, § 84-494.1; Acts 1987, No. 621, §§ 2, 4; 1988 (3rd Ex. Sess.), No. 35, § 1; 1991, No. 860, § 2; 1995, No. 754, § 1; 1999, No. 1292, § 1; 2007, No. 827, § 204; 2009, No. 277, § 1; 2011, No. 175, § 9; 2015, No. 59, § 1; 2021, No. 307, § 1.

Amendments. The 2021 amendment added (b)(2) and redesignated former (b) as (b)(1); and added "Except as provided in subdivision (b)(2) of this section" in (b)(1).

SUBCHAPTER 16 — UTILITIES AND CARRIERS GENERALLY

SECTION.

26-26-1617. Time limitation for collection.

SECTION.

26-26-1618. Settlement or compromise of liability.

26-26-1617. Time limitation for collection.

(a)(1) Taxes and penalties certified to the Secretary of the Department of Finance and Administration under § 26-26-1614 shall be collected within ten (10) years from the date of certification to the secretary.

(2) Taxes and penalties that have not been collected within ten (10) years from the date of certification to the secretary are uncollectible.

(b) Taxes and penalties that become uncollectible under subsection (a) of this section shall be waived by the secretary.

History. Acts 2021, No. 719, § 1.

26-26-1618. Settlement or compromise of liability.

(a) The Secretary of the Department of Finance and Administration may waive any tax certified under § 26-26-1614, or any portion of a tax certified under § 26-26-1614, in the following circumstances:

(1) There is controversy over the amount of tax due;

(2) The inability of the taxpayer to pay the tax results from the insolvency of the taxpayer; or

(3) The taxpayer provides proof of the filing of a bankruptcy or other liquidation, reorganization, or dissolution proceeding by the taxpayer or proof that the tax was discharged in a bankruptcy or other liquidation, reorganization, or dissolution proceeding.

(b) The secretary may waive any penalty assessed under this chapter on a tax certified to the secretary under § 26-26-1614, or any portion of a penalty assessed under this chapter, in the following circumstances:

- (1) Upon receipt of a satisfactory explanation of the taxpayer's failure to pay the tax when it came due;
- (2) Upon proof that the failure to pay the tax when it came due resulted from mistake by the taxpayer of either the law or the facts subjecting the taxpayer to the tax;
- (3) Upon proof of insolvency of the taxpayer; or
- (4) Upon proof of the filing of a bankruptcy or other liquidation, reorganization, or dissolution proceeding by the taxpayer or proof that the penalty was discharged in a bankruptcy or other liquidation, reorganization, or dissolution proceeding.

History. Acts 2021, No. 719, § 1.

CHAPTER 27

EQUALIZATION OF ASSESSMENTS

SUBCHAPTER 3 — COUNTY EQUALIZATION BOARDS

26-27-317. Applications for adjustment.

CASE NOTES

Exhaustion of Administrative Remedies.

Circuit court properly granted a county's motion to dismiss a taxpayer's action challenging the assessment and ad valorem taxation of his truck because the taxpayer did not pursue relief with the board of equalization as required by this section, and therefore did not exhaust his

administrative remedies pursuant to § 26-27-318. The taxpayer did not apply for an adjustment to the county equalization board, and because he did not contest the assessment, he did not receive a decision from the board and did not appeal to the county court. *Brown v. Towell*, 2021 Ark. 60, 619 S.W.3d 17 (2021).

26-27-318. Appeals to courts.

CASE NOTES

Exhaustion of Administrative Remedies.

Circuit court properly granted a county's motion to dismiss a taxpayer's action challenging the assessment and ad valorem taxation of his truck because the taxpayer did not pursue relief with the board of equalization as required in § 26-27-317, and therefore did not exhaust his

administrative remedies pursuant to this section. The taxpayer did not apply for an adjustment to the county equalization board, and because he did not contest the assessment, he did not receive a decision from the board and did not appeal to the county court. *Brown v. Towell*, 2021 Ark. 60, 619 S.W.3d 17 (2021).

CHAPTER 28
TAX BOOKS AND RECORDS

SUBCHAPTER.

1. GENERAL PROVISIONS.

SUBCHAPTER 1 — GENERAL PROVISIONS

SECTION.

26-28-108. Delivery of tax books to county collector.

SECTION.

26-28-111. Correction of errors.

26-28-108. Delivery of tax books to county collector.

(a) On or before February 1 of each year, the preparer of tax books of each county shall make out and deliver the tax books of his or her county to the county collector with the preparer of tax books' warrant attached, under his or her hand and the seal of his or her office, authorizing the county collector to collect the taxes.

(b) The county collector shall give a receipt for the tax books, in which the amount of the different taxes shall be separately stated, and the county clerk shall file the receipt in the records of the county.

(c) An electronic reproduction of a tax book, warrant, or receipt kept in accordance with § 13-4-301 is sufficient under this section.

History. Acts 1883, No. 114, § 94, p. 199; 1887, No. 92, § 37, p. 143; C. & M. Dig., § 10016; Acts 1933 (1st Ex. Sess.), No. 16, § 3; Pope's Dig., § 13763; A.S.A. 1947, § 84-807; Acts 2003, No. 295, § 6; 2021, No. 278, § 4.
Amendments. The 2021 amendment added (c).

26-28-111. Correction of errors.

(a) When, after the tax books have been delivered to the county collector, it is ascertained that there is an error in the real or personal property tax books, the error shall be corrected in the following manner:

(1)(A) When the county assessor discovers an error in the real property tax books or any error is brought to the attention of the county assessor by any person, the county assessor shall cause the error to be corrected by completing the following prenumbered form, indicating thereon the correction to be made:

REAL PROPERTY TAX CORRECTION No. _____

School Dist. _____

City _____

Name _____

Address _____ Date ____ 20 ____

Description of Property	SEC.	TWP.	RGE.	ACRES	100TH	LOT	BLK.	OLD VALU- ATION	COR- RECTED VALU- ATION	NET VALUE CREDIT	NET VALUE DEBIT	MILL	NET TAX CREDIT	NET TAX DEBIT

REMARKS

I hereby certify that
the above
correction should be
made by the
Collector

I hereby certify that
the above
correction has been
made

I hereby certify that
the above
correction will be in-
corporated in the
final settlement

Assessor _____ Collector _____ Preparer of Tax
Books _____

(B) Upon completing and signing the above real property tax correction form, the county assessor shall transmit the form to the county collector. The county collector shall sign the form and shall transmit the form to the preparer of tax books, who shall sign and retain the form according to law.

(2)(A) When the county assessor discovers an error in the personal property tax books or any error is brought to the attention of the county assessor, he or she shall cause the error to be corrected by completing the following prenumbered form in triplicate, indicating thereon the correction to be made:

PERSONAL PROPERTY TAX CORRECTION No. _____
School Dist. _____
City _____
Name _____
Address _____ Date ____ 20 ____

Description of Property	Old Valua- tion	Cor- rected Valua- tion	Net Value Credit	Net Value Debit	Mill	Net Tax Credit	Net Tax Debit
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REMARKS

I hereby certify that the above correction should be made by the Collector	I hereby certify that the above correction has been made	I hereby certify that the above correction will be incorporated in the final settlement
Assessor _____	Collector _____	Preparer of Tax Books _____

(B) Upon completing and signing the above personal property tax correction form, the county assessor shall transmit the form to the county collector. The county collector shall sign the form and shall transmit the form to the preparer of the tax books who shall sign and retain the form according to law.

(b) The real property tax correction forms and the personal property tax correction forms required by this section to be kept in the records of the preparer of the tax books may be destroyed upon the expiration of one (1) year after the date on which the Legislative Joint Auditing Committee accepts and files the audit of the particular office performed by Arkansas Legislative Audit.

(c)(1) This section applies only to the correction of extension errors, erroneous property descriptions, classifications, or listings.

(2)(A) A correction shall be made under this section regardless of whether the error was caused by the county assessor or the taxpayer or was the result of an erroneous record or report or other circumstance.

(B) However, a correction under this section shall not be utilized to make any change in the valuation of real or personal property as shown on the tax books and related records other than a change in valuation necessitated by the correction of factual errors as provided in this section.

(3) A reduction in the valuation of real or personal property shall not be made, except such as shall have been ordered by the county equalization board, the county court, the circuit court, or the Supreme Court, or be caused by the correction of actual and obvious errors as provided in this section.

(d) When the county assessor discovers or is informed of an error described in subsection (c) of this section in the real or personal property tax books before the tax books have been delivered to the county collector, the county assessor shall correct the error directly on the tax books and shall maintain a record of the correction in the county assessor's records.

(e) An electronic or facsimile signature of a county assessor, county collector, or county clerk is sufficient under this section.

History. Acts 1883, No. 114, § 74, p. 199; C. & M. Dig., § 9938; Pope's Dig., § 13722; Acts 1983, No. 875, §§ 1-3; A.S.A. 1947, §§ 84-811, 84-811n, 84-811.1; Acts 2017, No. 659, §§ 7, 8; 2021, No. 278, § 5.

Amendments. The 2021 amendment deleted “in triplicate” following “pre-numbered form” in (a)(1)(A); in the certification information at the end of the forms in (a)(1)(A) and (a)(2)(A), substituted “Pre-

parer of Tax Books” for “County Clerk”; rewrote (a)(1)(B) and (a)(2)(B); in (b), substituted “preparer of the tax books” for “county assessor, county collector, and county clerk”; and added (e).

